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The Bombay Code

1880

Sub - Law And Legislation/ Codes Containing Provincial Legislation/

The Bombay Code

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GOVERNMENT OF INDIA,
LEGISLATIVE DEPARTMENT.

THE

BOMBAY CODE:

CONSISTING OF THE

UNREPEALED BOMBAY REGULATIONS,

ACTS OF THE SUPREME COUNCIL RELATING SOLELY TO BOMBAY

AND

ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL.

WITH CHRONOLOGICAL TABLE.

CALCUTTA:
SUPERINTENDENT OF GOVERNMENT PRINTING.

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The Bombay Code 1888

PREFACE.

THIS, the Bombay Code, is published under the authority of the Government of India, and contains, first, the unrepealed Bombay Regulations passed between the years 1827 and 1834; secondly, the unrepealed Acts of the Supreme Council relating solely to Bombay passed between the years 1835 and 1879; and, thirdly, the unrepealed Acts of the Governor of Bombay in Council passed between the years 1862 and 1879. With the single exception of Regulation II of 1810, as to the port of Bombay, the Regulations made before 1827 appear to be repealed. Regulation II of 1810 is omitted as obsolete.

The present volume is founded on Clarke's edition of the Bombay Regulations published in 1851, under the authority of the Court of Directors of the East India Company; on the official copies of the Acts of the Supreme Council preserved in the Legislative Department; and on official copies of Bombay Acts received from the Bombay Government.

The only changes made in reprinting are the following:—

(*a*). Repealed portions of Regulations and Acts have been omitted, except in some cases where the repeal is not specific. In such cases the repeal is mentioned in a foot-note.

(*b*). Where an Act directs that a section, a clause or words be inserted in a former Regulation or Act, in reprinting the former Regulation or Act, the insertion has been made.

(*c*). Where one Regulation or Act refers to another, and such reference is directed by a subsequent Act to be read as if made to

the latter Act, the number, year and title of the latter Act have, as a rule, been substituted in the text.

(*d*). Arabic numerals have been substituted for the Roman numerals used in the Regulations and the earlier Acts to denote the section numbers.

(*e*). Words belonging to Oriental languages have been uniformly spelt.

(*f*). Lengthy sections have sometimes been divided into clauses and paragraphs.

(*g*). In some instances marginal notes have been added; in others, they have been shortened or corrected.

The Registrar, Legislative Department, is responsible for the correct printing of unaltered matter.

Some foot-notes have been added. They are chiefly (*a*) cross-references to Regulations and Acts, and (*b*) references to notifications in Indian Gazettes. It is hardly necessary to say that these notes are not authoritative.

The Chronological Table prefixed enumerates all the Bombay Regulations passed between 1799 and 1834, and all the Bombay Acts passed between 1862 and 1879, and shews whether a given Regulation or Act has been repealed wholly, in part, or locally.

W. S.

CALCUTTA,
The 31st January, 1880.

TABLE OF CONTENTS.

	Page
Chronological Table of Bombay Regulations and Acts . .	ix

PART I.—BOMBAY REGULATIONS

Year	No	Subject	Page
1827	II.	Civil Courts	1
	IV	Procedure in suits and appeals	6
	V	Proof of debts Interest Mortgages	*ib*
	VIII	Administration of Estates	7
	XII	Police	12
	XIII	Criminal Courts	15
	XXII	Military Authority	*ib.*
	XXV	State Prisoners . .	24
	XXIX	Dekkhan and Khándesh	28
1830	VII	Southern Maratha Country	35
	XIII	Jurisdiction of Jágirdárs, &c	43
1831	I	Land suits in Dekkhan ...	45
	XVI	Agent in Khándesh ...	46
1834	I	Deputy Agent for Sardárs in Dekkhan ...	47

PART II.—LOCAL ACTS OF THE SUPREME COUNCIL RELATING TO BOMBAY

Year	No	Subject	Page
1835	XIX	Assistant to Agent for Sardárs in Dekkhan	49
1836	VII	Exclusion of opium-cases from Civil Courts	*ib*
1838	XVI	Judiciary .	50
	XIX	Coasting vessels	51
1839	XX	Haqqs .	54
1840	XV	Agents of foreign Sovereigns	55
1844	XIX	Abolition of Town-duties .	*ib*
1846	XI	Khandesh	*ib*
1852	XI	Titles to Rent-free Estates ..	62

PART II —LOCAL ACTS OF THE SUPREME COUNCIL RELATING TO BOMBAY.—*concluded.*

Year.	No.	Subject	Page.
1853	XI	Bombay and Kolába Shore-nuisances ...	70
1855	X	Recusant witnesses	72
1856	VIII	Control of Gaols	73
	XIII	Presidency Town Police ...	*ib.*
1857	IV	Tobacco	87
	XXIX	Land-customs	92
1860	XLVIII	Presidency Town Police	96
1864	II	Aden Courts	103
	XX	Minors	109
1866	XXIII	Correcting Bombay High Court Letters Patent	115
1868	IV	Exemption from Regulations	*ib.*
	V	Commissioner in Sindh	116
1869	XI	Land-customs	117
	XIV	Mufassal Courts	120
1872	V	Jurisdiction over Sindh	127
	XX	Amending Act V of 1872	128
1876	X	Revenue Jurisdiction...	129
	XIV	Sindh Incumbered Estates	140
	XV	Bombay Municipal Debentures	149
	XX	Bhaunagar	151
1877	XIV	Broach and Kaira Incumbered Estates . .	157
	XVI	Revenue Jurisdiction	166

PART III.—ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL.

Year	No.	Subject.	Page
1862	I	Lands ceded by Gaikwád	167
	IV	Markets and Fairs	168
	V	Bhágdárí and Narwádárí Tenures	170
	VI	Ahmadábád Taluqdárs	172
1863	I	Registry of Vessels on Indus	177
	II	Exemptions from Land-revenue	180
	III	Sátára, Muchandi	190
	V	Bombay Gas Company	202
	VI	Public Conveyances	210
	VII	Summary Settlement of Claims to Exemption from Revenue	220

PART III.—ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL,—*continued.*

Year.	No.	Subject.	Page.
1864	II	Survey of Steamers	232
	VI	Diet-money of prisoners	238
1865	I	Leases to Khots	239
	III	Amending Wager Act ...	240
	VII	Extending Act XX of 1863 to Kánara ...	241
	VIII	Land-cess in Sindh	*ib.*
1866	III	Gambling	243
	VII	Hindú Heirs' Relief	247
	VIII	Sale of Poisons	249
	X	Shortening Language of Acts	256
	XII	Sindh Courts	258
	XIII	Witnesses before Legislative Council ...	262
	XIV	Extending Regulations to Edulábád and Warangáon	264
1867	III	Cantonments	265
	VI	Sanitary Regulations, Bombay	271
	VII	District Police	276
	VIII	Village Police	286
1868	II	Public Ferries	292
	III	Amending Bombay Act V of 1867 ...	296
1869	III	Funds for Local Improvements	*ib.*
1870	II	Seals of Magistrates	300
	III	Re-payment of Loan to Bombay Corporation ...	*ib.*
1871	II	Duties on Non-Agricultural Classes ...	302
1872	I	Amendment of Act XIII of 1856	305
	II	Additional Loan to Bombay Corporation ...	307
1872	III	Municipality of Bombay	320
1873	IV	Survey of Steamers	418
	V	Inspection of steam-boilers	423
	VI	Mufassal Municipalities	433
	VII	Salt	467
1874	I	Bombay Tramways	484
	II	Jails	500
	III	Hereditary Offices	512
1875	III	Tolls on Roads and Bridges ...	529
1876	I	Amendment of Bombay Act VIII of 1867 ...	533
	II	Land-revenue, Bombay City	*ib.*
	III	Mámlatdárs' Courts	545
1877	I	Vaccination, Bombay City	553
1878	II	Amendment of Bombay Act II of 1868 ...	562
	IV	Amendment of Bombay Act III of 1872 ..	563
	V	Ábkárí	569

PART III.—ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL—*concluded.*

Year	No.	Subject	Page
1878	VI	Amendment of Bombay Act IV of 1878 ..	589
	VII	Cotton-frauds	590
1879	I	Sindh Municipalities ..	596
	II	Amendment of Act XIII of 1876 ..	597
	III	Landing and Wharfage-fees, Karáchí	598
	IV	Vaccination, Karáchí ...	600
	V	Land-Revenue Code	620
	VI	Bombay Port Trust	687
	VII	Irrigation	716

SUPPLEMENT

Part I.—Acts of the Supreme Council.

Year	No	Subject	Page
1879	IX	Burma Coast Lights	739
	XVI	Transport of salt	743
	XVII	Dekkhan Agriculturists' relief	748

Part II.—Act of the Governor of Bombay in Council.

Year	No	Subject	Page
1878	III	License Act	747

PART I.—REGULATIONS PASSED BY THE GOVERNOR OF BOMBAY IN COUNCIL—*contd.*

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1812	I	Trials for State-offences	
	II	Empowering Judges, &c., to propose Regulations.	
	III	Abolishing Salsette Session Court, &c.	
	IV	Appeals to Privy Council ...	
	V	Extending to Kaira and Broach parts of Regulation II, 1808.	
	VI	Appeals from Zila Courts	
	VII	Sadr Adálat ...	
	VIII	Trials in Provincial Court of Circuit.	
	IX	Trials in Superior Tribunal	
	X	Judges of Provincial Court of Appeal.	
	XI	Rules in case of doubt as to meaning of Regulations	
1813	I	Importation and sale of slaves.	
	II	Appeals ..	Rep., Reg. I of 1827.
	III	Repair of water-courses, &c.	
	IV	Persons triable for offences committed abroad,	
	V	Suits by and against Native Princes.	
	VI	Removal of Immigrants ...	
	VII	Execution of judgments of Bombay Court of Requests.	
	VIII	Native officers ..	
	IX	Single Judges of Provincial Court of Appeal.	
	X	Foreign trade	
	XI	Loans by covenanted Civil Servants.	
1814	I	Interest	
	II	Village-Accountants ..	
	III	Non-Bádsháhí Grants, &c.	
	IV	Embezzlement by Native officers.	
	V	Sale of certain drugs ...	
	VI	Confiscation and sale of forfeited goods.	Rep., I of 1852.

PART I.—REGULATIONS PASSED BY THE GOVERNOR OF BOMBAY IN COUNCIL.—*contd.*

Year.	Number	Subject-matter	How repealed or otherwise determined.
1814	VII	March of troops ...	
	VIII	Export of Saltpetre	
	IX	Punishment of persons guilty of several offences.	
	X	Revenue-records ...	
	XI	Resident at Sinder Droog	
1815	I	Preventing Judges and Collectors from retaining their Native Creditors.	
	II	Pensions	
	III	Revenue-powers of senior Magistrate of Police.	
	IV	Civil jurisdiction of Residents at Fort Victoria and Malwan.	
	V	Assistant Judges of Zila and City Adálats.	
	VI	Vacations and Jail-deliveries	
	VII	Arbitration	
	VIII	Trading by Commercial Residents.	
	IX	House-tax, Bombay ...	Rep., Reg. I of 1827.
	X	Kázís	
	XI	Spirit-duties	
	XII	Trials at Fort Victoria and Malwan.	
	XIII	Collection of Customs ...	
	XIV	Stamps ...	
1816	I	Pauper-suits	
	II	Village-Accountants ...	
	III	Records of Courts	
	IV	Manufacture and sale of Spirit	
	V	Export of Saltpetre ...	
	VI	Thákur of Bhaunagar ...	
	VII	Stamps	
	VIII	Manifests of goods imported in small craft.	
	IX	Collector of Anjar ...	
	X	Modifying Regulation X of 1813	
1817	I	Zilas of Kaira and Surat	
	II	Amending Regulation XIII of 1815.	

PART I.—REGULATIONS PASSED BY THE GOVERNOR OF BOMBAY IN COUNCIL—*contd.*

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1817	III	Explaining Regulation IX of 1815.	
	IV	Fees in Court of Petty Sessions.	
	V	Carriage and Horse-tax ...	
	VI	Zilas of Salsette, Broach and Kaira	
	VII	Smuggling tobacco and gánja.	
1818	I	Duty on Opium ...	
	II	Amending Regulation VIII, 1813.	
	III	Magistrates and Criminal Judges.	
	IV	Police	
	V	Appeals to Privy Council	
	VI	Foreign trade ...	
	VII	Market-fees, Music, Wedding-sheds.	
	VIII	State-Prisoners ..	
1819	I	Police in Cantonments ...	
	II	Amending Regulation XIV of 1802.	Rep., Reg. I of 1827.
	III	Ceded and Conquered territories.	
	IV	Complaints against Collectors, &c.	
	V	Native Officers.	
	VI	Rescinding in part Regulation IV, 1818.	
	VII	Amending Regulation III of 1819.	
	VIII	Security for good behaviour	
	IX	Criminal law	
	X	Amending Regulation I of 1812.	
1820	I	State-offences ...	
	II	Explaining Regulation I of 1818.	
	III	Zila of South Konkan ..	
	IV	Taluqa of Chief of Balaseena and Veerpur.	
	V	Abolishing Provincial Court of Appeal.	

PART I.—REGULATIONS PASSED BY THE GOVERNOR OF BOMBAY IN COUNCIL—*contd.*

Year.	Number	Subject-matter.	How repealed or otherwise determined.
1820	VI	Assistant Judges, Zila Courts	
	VII	Sadr Faujdári Adálat ...	
	VIII	Questions as to meaning of Regulations.	
1821	I	Explaining Regulation V of 1820.	
	II	Foreign trade .	
	III	Trials for Offences in Anjar	
	IV	Sales of certain lands in Island of Bombay.	
1823	I	Exemptions from revenue: limitation.	
1824	I	Execution by Zila Courts of Judgments of other Courts.	Rep., Reg. I of 1827.
	II	Construction of Regulation I of 1823.	
	III	Commencement of Regulation I of 1823, section 29.	
	IV	Registrar, Sadr Adálat and Sadr Faujdári Adálat. .	
1826	I	Suits against Thákur of Bhaunagar.	
	II	Bribing Customs-Officers.	
	III	Courts-martial, Military Courts of Requests.	
1827	I	Codifying Regulations . .	Rep , XII of 1873.
	II	Civil Courts	Rep. in part, I of 1846; X of 1861; XIV of 1869; X of 1873; XII of 1873; XII of 1876; Bom. Act VI of 1866.
	III	Civil Procedure ...	Rep., XIV of 1869.
	IV	Procedure in suits and appeals.	Rep. in part, X of 1861; XVII of 1862; XIV of 1869; VI of 1874; Bom. Act V of 1879.
	V	Limitation, Interest, Mortgages.	Rep. in part, XXVIII of 1855; IX of 1871; XII of 1873; XII of 1876; XVII of 1879, s. 12.

PART I.—REGULATIONS PASSED BY THE GOVERNOR OF BOMBAY IN COUNCIL—*contd.*

Year.	Number.	Subject-matter	How repealed or otherwise determined.
1827	VI	Pauper-suits and Appeals ..	Rep., X of 1861.
	VII	Panchâyats	
	VIII	Succession to estates of deceased persons.	Rep. in part, XII of 1873.
	IX	Registration ...	Rep., XVI of 1864.
	X	Disputes as to Village-boundaries.	Rep., Bom. Act I of 1865, s. 50.
	XI	Persons subject to Criminal regulations.	Rep., XVII of 1862.
	XII	Police	Rep. in part, III of 1857; XVII of 1862; X of 1872; X of 1873; XII of 1873; XII of 1876; Bom. Act VI of 1866; Bom. Act VII of 1867; Bom. Act VIII of 1867; Bom. Act II of 1870.
	XIII	Criminal Courts ...	Rep. in part, XVII of 1862; X of 1872; XXIV of 1872; X of 1873; XII of 1873; XII of 1876; Bom. Act IV of 1865; Bom. Act VI of 1866.
	XIV	Crimes and Offences ...	Rep., XII of 1873.
	XV	Police-jurisdiction of landholders.	Rep., XVII of 1862.
	XVI	Collectors of Land-revenue	Rep., Bom. Act V of 1879.
	XVII	Land-revenue ...	
	XVIII	Stamps ...	Rep., XXXVI of 1860.
	XIX	Land-revenue (Bombay town); taxes on shops, &c.	Rep., Bom. Act II of 1876.
	XX	Sea-Customs ...	Rep. in part, I of 1838; I of 1852.

PART I.—REGULATIONS PASSED BY THE GOVERNOR OF BOMBAY IN COUNCIL—*contd.*

Year.	Number	Subject-matter	How repealed or otherwise determined.
1827	XXI	Duty on Opium and Spirits	Rep. in part, I of 1838; IV of 1857; XII of 1873; XII of 1876; I of 1878; Bom. Reg. XX of 1830; Bom. Act VIII of 1866. Rest rep., Bom. Act V of 1878.
	XXII	Military Authority ...	Rep. in part, XI of 1841; IV of 1854; V of 1863; XII of 1873; XII of 1876; locally, Bom. Act III of 1867.
	XXIII	Money-transactions with Natives; Occupation of land by Europeans.	Rep., XVII of 1862.
	XXIV	Printing Presses ...	Rep., XI of 1835.
	XXV	State-Prisoners ...	Rep. in part, III of 1858; XII of 1873; XII of 1876.
	XXVI	Kázís	Rep., XI of 1864.
	XXVII	Zila Court of Broach	Rep., XII of 1873.
	XXVIII	Commencement of Regulations.	
	XXIX	Dekkhan and Khándesh ...	Rep. in part, VI of 1842; XI of 1846; IV of 1868; XIV of 1869; XXIII of 1871; X of 1876; XII of 1876; Bom. Reg. IV of 1828.
	XXX	Criminal law, Púna and Ahmadnagar.	Rep., XVII of 1862.
	XXXI	Introduction of revised Code of Regulations.	Rep, XIV of 1869.
	XXXII	Taxes on carriages and horses	Rep., XXV of 1858.

PART I.—REGULATIONS PASSED BY THE GOVERNOR OF BOMBAY IN COUNCIL—*contd.*

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1827	XXXIII	Duty on Spirit	Rep., XXIV of 1850.
	XXXIV	Nawáb of Surat ...	Rep., XII of 1873.
1828	I	Broach Civil Officers ...	Rep., Reg. IX of 1828.
	II	Broach Criminal Officers ...	Rep., Reg. X of 1828.
	III	Stamps ..	Rep., XXXVI of 1860.
	IV	Stamps in Dekkhan and Khándesh.	Rep., XII of 1873.
	V	Suits against Sardárs, Dekkhan.	Rep., Reg. I of 1834.
	VI	Stamps	Rep., XXXVI of 1860.
	VII	Appeal Court, Guzarát ...	Rep., Reg. I of 1830.
	VIII	Provincial Court of Circuit, Guzarát.	Rep., Reg. III of 1830.
	IX	Repealing Regulation I of 1828.	Rep., XII of 1873.
	X	Repealing Regulation II of 1828.	
	XI	Assistant Criminal Judges...	
	XII	Assistant Criminal Judges ...	Rep., Reg. III of 1830.
	XIII	Registry of Deeds ...	Rep., XVI of 1864.
	XIV	Toll at Sion Causeway ...	Rep., XII of 1873.
	XV	Duty on tobacco ...	Rep., XXIV of 1850.
	XVI	Subsidiary Jails ...	Rep., XII of 1876.
	XVII	Conspiracy	Rep., XVII of 1862.
1829	I	Assistants to Magistrate, Dekkhan.	Rep., Reg. IV of 1830, s. 4.
	II	Native troops	Rep., V of 1863.
	III	Cotton-frauds	Rep., Bom. Act IX of 1863.
1830	I	Jurisdiction of Native Commissioners.	Rep., XIV of 1869.
	II	Appeals	Rep., Reg. VII of 1831.
	III	Criminal Judges ...	Rep. in part, XVII of 1862; Bom. Act VI of 1866; Residue rep., X of 1872.
	IV	Police-jurisdiction ...	Rep., XII of 1873.
	V	Revenue Commissioner ...	Rep., Bom. Act V of 1879.
	VI	Referring suits to Komavisdárs.	Rep., Bom. Act II of 1866.
	VII	Southern Mahratta Country	Rep. in part, VI of 1842; XII of 1873; X of 1876; XII of 1876.
	VIII	Counterstamping ...	Rep., XXXVI of 1860.

PART I.—REGULATIONS PASSED BY THE GOVERNOR OF BOMBAY IN COUNCIL—*contd.*

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1830	IX	Toll on Bhor Ghát Road ..	Rep., II of 1837.
	X	Villages in Khándesh .	Rep., XV of 1874.
	XI	Private Dáks	Rep., XVII of 1837.
	XII	Valuing land in suits . .	Rep., X of 1862.
	XIII	Civil Jurisdiction of Jágírdárs, &c.	Rep. in part, XII of 1873; XII of 1876.
	XIV	Lands on Mahábaleshvar Hills	Rep., XV of 1874.
	XV	Foreign Trade	Rep., XII of 1873.
	XVI	Self-immolation ...	Rep., XVII of 1862.
	XVII	Duties at Surat ..	Rep., XIX of 1844.
	XVIII	Joint Judge, Púna Zila ...	Rep., XII of 1873.
	XIX	Joint Session-Judge, Púna Zila	Rep., XVII of 1862.
	XX	Malwa Opium	Rep., I of 1878.
1831	I	Land-suits in Dekkhan ...	Rep. in part, XII of 1873.
	II	Salt and Saltpetre ...	Rep., I of 1838.
	III	Stamps on copies of decrees ..	Rep., XXXVI of 1860.
	IV	Assistant Collectors' Criminal Jurisdiction.	Rep., XXV of 1839.
	V	Escapes from custody ...	Rep., XVII of 1862.
	VI	Light-house on Peerum ...	Rep., XVII of 1858.
	VII	Appeals in Civil Suits ...	Rep., XIV of 1869.
	VIII	Session-Judges, &c. ...	Rep., X of 1872.
	IX	Police-Jurisdiction of landholders.	Rep., XVII of 1862.
	X	Vechania and Gerania tenures	Rep., XII of 1873.
	XI	Toll on Bhor Ghát Road	Rep., II of 1837.
	XII	Repair of walls of Ahmadábád	Rep., XIX of 1844.
	XIII	Customs-duties... ...	Rep., I of 1838.
	XIV	Stamps	Rep., XXXVI of 1860.
	XV	Falsification of records ...	Rep., Bom. Act V of 1879.
	XVI	Jurisdiction of Political Agent, Southern Maharatta Country.	Rep. in part, XII of 1873.
	XVII	Courts of Requests ..	Rep., XI of 1841.
	XVIII	Native Judicial Officers ...	Rep., XIV of 1869.
1832	I	Salt-tax, Malwan and Vingorla	Rep., I of 1838.
	II	Farmers of land-revenue ..	Rep., Bombay Act V of 1879.
1833	I	Manifests	Rep., I of 1852.
	II	Judicial Native Commissioners	Rep , XIV of 1869.
	III	Police	Rep., XVII of 1862.
	IV	Trade : Salt-duty ...	Rep., I of 1838.
	V	Hereditary Officers ...	Rep., Bom. Act V of 1879.
	VI	Exemption from payment of land-revenue.	Rep., Bom. Act VII of 1863.

PART I.—REGULATIONS PASSED BY THE GOVERNOR OF BOMBAY IN COUNCIL.—*concld.*

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1833	VII	Rioting	Rep., XVII of 1862.
	VIII	Circuit by Judicial Commissioners.	
	IX	Prisoners under sentence of Courts beyond British India.	Rep., VIII of 1863.
	X	Ábkárí revenue, Island of Bombay.	Rep., XVII of 1859.
1834	I	Deputy Agent for Sardárs in Dekkhan.	Rep. in part, XII of 1873.
	II	Villages ceded by Angria Sirkeel.	Rep., XV of 1874.
	III	Town-duty, Bombay ...	Rep., XII of 1876.
	IV	Duty on Cotton ...	Rep., I of 1838.
	V	Tax on metals and piece-goods	Rep., XIX of 1844.
	VI	Adjournment of Civil Courts	Rep., XIV of 1869.

PART II.—RULES AND REGULATIONS RELATING TO THE TOWN AND ISLAND OF BOMBAY.

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1812	1	For good order and civil government of Island of Bombay.	Rep., Rule 3 of 1815 ?.
	2	Sale of spirit	Rep., XIII of 1856.
	3	Building within town-walls; encroachments.	Rep. in part, XXVIII of 1839. Residue rep., XIV of 1856.
1813	1	Maintenance of infants: Aliens	Rep., XIII of 1856.
	2	Pariah Dogs: Pounds ...	
1814	1	Disputes between masters and servants.	
1815	1	Control of sale of spirits ...	
	2	Wheels of hackeries ...	Rep., Rule 1 of 1818.
	3	Amending Police Regulations 1 and 3 of 1812.	Rep. in part, XXVIII of 1839. Residue rep., XIV of 1856.
1818	1	Wheels of hackeries ...	Rep., XIII of 1856.
1820	1	Shipping, desertion, harbour and dockyard.	
1821	1	Ballast	
1825	1	Newspapers	Rep., XI of 1835.
	2	Repealing in part Rule 1 of 1812.	

PART II —RULES AND REGULATIONS RELATING TO THE TOWN AND ISLAND OF BOMBAY—*concluded.*

Year	Number	Subject matter	How repealed or otherwise determined
1827	1	Repealing in part Rule 1 of 1814	
	2	Court of Petty sessions	Rep , XIII of 1856
	3	House of Correction	Rep , Bom. Act II of 1874
1828	1	Preventing goods from being left on quays	
1834	1	Repealing in part Rule 2 of 1827	Rep in part, XIII of 1856.

PART III —ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL.

Year	Number	Subject matter.	How repealed or otherwise determined
1862	I	Lands ceded by Gaikwád ...	
	II	Municipal Commissioners ...	Rep., Bom Act VI of 1873.
	III	Amending Act XI of 1843 ..	Rep., Bom. Act III of 1874.
	IV	Markets and Fairs ..	Rep. in part, XII of 1873 XII of 1876.
	V	Bhágdárí and Narwadárí Tenures ...	
	VI	Ahmadábád Taluqdárs .	Rep in part, XII of 1876
	VII	Port-dues, North Canara	Rep , Bom Act XI of 1866.
	VIII	Smoke of Furnaces, Bombay Town.	Rep , Bom Act II of 1865.
	IX	Amending Act XXVI of 1850	Rep , Bom Act VI of 1873.
	X	Fettering prisoners .	Rep., Bom. Act II of 1874
1863	I	Vessel plying on Indus	Rep in part, XII of 1873.
	II	Exemptions from land revenue.	Rep. in part, X of 1876, XII of 1876. Restricted in application, Bom Act IV of 1868.
	III	Sátára, Muchandi ...	Rep. in part, IV of 1868; XV of 1874; X of 1876.
	IV	Port-dues, Aden .	Rep., XII of 1875
	V	Bombay Gas Company	Rep in part, XII of 1876
	VI	Public conveyances, Bombay	Rep in part, XII of 1873; XII of 1876.

PART III.—ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL—*continued.*

Year.	Number.	Subject matter.	How repealed or otherwise determined.
1863	VII	Summary settlement of claims to exemption from revenue.	Rep. in part, XII of 1873; X of 1876; XII of 1876; Restricted in application, Bom. Act IV of 1868.
	VIII	Small Cause Court, Karáchi...	Rep., XII of 1873.
	IX	Cotton-frauds ...	Rep., Bom. Act VII of 1878.
	X	Bank of Bombay ...	Rep., XI of 1876.
	XI	Census ..	Rep., XII of 1873.
	XII	Proceedings in Sátára	
	XIII	Vehar water-works ...	Rep., Bom. Act II of 1865.
1864	I	Amending XXV of 1858, section 6.	Rep., Bom. Act II of 1865.
	II	Survey of steamers ...	Rep. in part, Bom. Act IV of 1873, ss. 4, 11.
	III	Repealing parts of Regulations V of 1830 and VIII of 1831.	Rep., XII of 1873.
	IV	Native law-officers	
	V	Mámlatdárs' Courts ..	Rep., Bom. Act III of 1876.
	VI	Diet-money of persons imprisoned by Bombay Small Cause Court.	Rep. in part, XII of 1873.
1865	I	Survey and Settlement	Rep. in part, XII of 1873; X of 1876; Bombay Act IV of 1868, ss. 16, 20.
	II	Bombay Municipality ...	Rep., Bom. Act III of 1872.
	III	Amending Wager Act.	
	IV	Mufassal Gaols	Rep., Bom. Act II of 1874.
	V	Whipping: Bombay House of Correction.	
	VI	Destruction of records ...	Rep., III of 1879.
	VII	Extending Act XX of 1863 to Canara.	
	VIII	Land-cess in Sindh.	
1866	I	Extending to Sindh Bombay Act I of 1865.	
	II	Divesting Revenue courts of certain suits.	Rep. in part, XII of 1873; X of 1876.
	III	Gambling	Rep. in part, XII of 1873.
	IV	Petty Sessions, Bombay ...	Rep., IV of 1877.

PART III.—ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL—*continued.*

Year	Number	Subject matter	How repealed or otherwise determined
1866	V	Repealing Regulation XVI, 1827, section 10	Rep., XII of 1873
	VI	Declarations of office	Rep., X of 1873
	VII	Hindú's liability for ancestor's debts	Rep. in part, XII of 1873
	VIII	Sale of Poisons	
	IX	Extending enactments to non-regulation territory.	Rep., XV of 1874.
	X	General Clauses	Rep. in part, XII of 1873, XV of 1874
	XI	Port-dues	Rep., XII of 1875
	XII	Sindh Courts ...	Rep. in part, XII of 1873, Bom. Act III of 1868.
	XIII	Witnesses before Legislative Council	Rep. in part, XII of 1876.
	XIV	Edulábád and Warangaom	Rep. in part, X of 1876, XII of 1876
	XV	Amending Bombay Act X of 1863	Rep., XI of 1876.
1867	I	Bank of Bombay	
	II	Amending Bombay Act XIV of 1866	Rep., XII of 1873
	III	Cantonments	Rep. in part, XII of 1876.
	IV	Bombay Municipality	Rep., Bom. Act III of 1872.
	V	Amending Bombay Act XII of 1866.	Rep., XII of 1873
	VI	Sanitary Regulation, Bombay.	
	VII	District Police	Rep. in part, X of 1872, XII of 1873, XVI of 1874.
	VIII	Village Police	Rep. in part, XII of 1873, XII of 1876, Bom. Act I of 1876.
	IX	Sale of spirit, Bombay	Rep., Bom. Act V of 1878
1868	I	Deputy and Assistant Collectors	Rep., Bom. Act V of 1879.
	II	Public Ferries	
	III	Amending Bombay Act V of 1867	Rep. in part, XII of 1873
	IV	Amending Bombay Act I of 1865	
1869	I	Bhor Ghát accident	Rep., XII of 1873

PART III.—ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL—*continued.*

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1869	II	Taxing professions and trades	Rep., Bom. Act I of 1870.
	III	Local Improvement Funds ...	Rep. in part, XII of 1873; XII of 1876.
	IV	Town-duties, Bombay ...	Rep., Bom. Act III of 1872.
	V	Court-records, Sindh.	Rep., III of 1879.
	VI	Inspection of Steam-boilers, Bombay.	Rep., Bom. Act V of 1873.
1870	I	Repealing Bombay Act II of 1869.	Rep., XII of 1873.
	II	Official seals of Magistrates...	Rep. in part, XII of 1873.
	III	Securing repayment of loan to Corporation of Bombay.	
	IV	Assignment for education out of Bombay Municipal Fund.	Rep., Bom. Act III of 1872.
	V	Fees for use of bandars ...	Rep., Bom. Act I of 1873.
1871	I	Cost of Police	Rep., Bom. Act VI of 1873.
	II	Duties on non-agriculturists	Rep. in part, X of 1876.
1872	I	Amending Act XIII of 1856	Rep. in part, XII of 1876; Bom. Act II of 1879.
	II	Repayment of loan to Bombay Corporation.	Rep. in part, XII of 1876.
	III	Bombay Municipality ...	Rep. in part, XII of 1876; Bom. Act II of 1873; Bom. Act IV of 1878; Bom. Act VI of 1878.
1873	I	Bombay Port Trust ...	Rep., Bom. Act VI of 1879.
	II	Amending Bombay Act III of 1872.	Rep., Bom. Act IV of 1878.
	III	Payments out of fees levied under Cotton Frauds Act.	Rep., XVI of 1874.
	IV	Survey of Steamers ...	Rep. in part, XII of 1876.
	V	Inspection of steam-boilers ...	Rep. in part, XII of 1876.
	VI	Mufassal Municipalities ...	Rep. in part, XII of 187[illegible]
	VII	Salt	Rep. in part, XII of 18[illegible]
1874	I	Tramways.	
	II	Jails, Bombay	Rep. in part, XII o[illegible]
	III	Hereditary offices ...	Rep. in part, XII
1875	I	Amending Bombay Act I of 1865.	

PART III.—ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL—*concluded.*

Year.	Number	Subject-matter	How repealed or otherwise determined.
1875	II	Empowering Bombay Municipality to aid in reception of Prince of Wales	Rep., Bom. Act IV of 1878.
	III	Tolls on Roads and Bridges.	
1876	I	Amending Bombay Act VIII of 1867.	
	II	Land-revenue, Bombay City.	
	III	Mámlatdárs' Courts.	
1877	I	Vaccination.	
	II	Municipality, Bombay City.	Rep., Bom Act IV of 1878.
1878	I	Bombay City Abkári ...	Rep., Bom. Act V of 1878.
	II	Amending Bombay Act II of 1868.	
	III	License.	
	IV	Municipal Act, 1872, Amendment and Continuance.	
	V	Abkári.	
	VI	Amending Bombay Municipal Act, 1872.	
	VII	Cotton Frauds.	
1879	I	Extension of Bombay District Municipal Act to Sind. Amending Act XIII of 1856.	
	II	Karáchí Landing and Wharfage Fees.	
	III	Karáchí Vaccination.	
	IV	Land-revenue Code.	
	V	Bombay Port Trust.	
	VI	Irrigation.	
	VII		

CHRONOLOGICAL TABLE OF BOMBAY REGULATIONS AND ACTS.

[*** With respect to entries in the fourth column the practice has been as follows:—

(*a*).—Where a Regulation or Act has been wholly repealed more than once, the latter repealing enactment has alone been entered.

(*b*).—Where a Regulation or Act has been partially repealed and afterwards wholly repealed, the total repeal only is entered. A repeal of the unrepealed portions of an Act is treated as a total repeal.

(*c*).—Partial repeals covered by later partial repeals are omitted.

(*d*).—Where a Regulation or Act has been locally repealed and afterwards repealed by an enactment whose operation is unrestricted, the latter repealing enactment has alone been entered.

(*e*).—Local repeals covered by later local repeals are omitted.]

PART I.—REGULATIONS PASSED BY THE GOVERNOR OF BOMBAY IN COUNCIL.

Year.	Number.	Subject-matter.	How repealed or otherwise determined.
1799	I	For Codifying Regulations	
	II	Foreigners	
	III	Civil Court, Salsette, Caranja, &c.	Rep., Reg. I of 1827.
	IV	Suits in such Court ...	
	V	Apprehension and trial of criminals.	
	VI	Bombay Customs ...	Rep. in part, X of 1873; Reg. I of 1827; Residue rep., I of 1852.
1800	I	Civil Court, Surat ...	
	II	Suits in such Court ...	
	III	Apprehension and trial of criminals, Surat.	
	IV	Ministerial officers of Courts, Surat.	Rep., Reg. I of 1827.
	V	Native Law-officers ...	
	VI	Arbitrators, Surat ...	
	VII	Sadr Adálat	
	VIII	Company's Investment, Surat.	
	IX	Customs, Surat ...	Rep. in part, Reg. I of 1827; Residue rep., I of 1852.
	X	Revenue of tobacco-farm ...	
1802	I	Court, Surat	
	II	Absence of Judges and Magistrates.	Rep., Reg. I of 1827.
	III	Criminal Law ...	
	IV	Registry for Wills and Deeds, Surat.	

PART I.—REGULATIONS PASSED BY THE GOVERNOR OF BOMBAY IN COUNCIL—*contd.*

Year	Number	Subject-matter.	How repealed or otherwise determined.
1802	V	Testamentary and intestate succession.	
	VI	Records of Courts: Reports of Suits.	
	VII	Trial by Natives of Small Causes.	
	VIII	Court-fees.	
	IX	Appeals from Registrar, Surat Court.	
	X	Pauper-suits	
	XI	Bonds by certain suitors, Surat.	Rep., Reg. I of 1827.
	XII	Reviews ...	
	XIII	Collectors of Revenue, Surat	
	XIV	Vakils, Surat, Salsette, &c.	
1803	I	Town-duty, Bombay ...	
	II	Appeals from Surat ...	
	III	Extending jurisdiction of Salsette Court.	
	IV	Modifying Regulation X, 1800.	
1804	I	Revenue of Arrack-farm ..	
1805	I	Amending Regulation VI, 1799.	Rep. in part, Reg. I of 1827. Residue rep., I of 1852.
	II	Judicial and Revenue System, Guzarát: Surat Session Court.	
1806	I	Bombay Custom-House.	
1807	I	Number of Judges at discharge of jails.	
1808	I	Record of Revenue-Rules, Salsette.	Rep., Reg. I of 1827.
	II	Rules for Administration of Justice.	
1809	I	Jurisdiction of Kaira Court	
	II	General Courts-martial, Bombay Army.	
	III	Trial of Natives charged with crimes committed abroad.	
1810	I	Town-duty ...	
	II	Bombay Port	Rep. in part, I of 1852.
1811	I	Resident at Fort Victoria	Rep., Reg. I of 1827.
	II	Assistant to Collector of Caranja.	

BENGAL SECRETARIAT LIBRARY.

THE BOMBAY CODE.

PART I:

THE UNREPEALED BOMBAY REGULATIONS.

REGULATION II OF 1827.

Passed on the 1st of January, 1827.

A Regulation for defining the constitution of Courts of civil justice, and the powers and duties of the Judges and officers thereof.[a]

Court to receive appeals, and revise and rectify proceedings of inferior tribunals.

5. *First.*[b]—It shall be the duty of the Sadr Díwání Adálat to hear and determine appeals against decrees and orders passed in the Zila Courts, and in certain cases to enforce the hearing of suits and complaints by such Courts, to enjoin an adherence to forms of proceeding prescribed by the Regulations when neglected or infringed, and to give such directions, with respect to forms not provided for by the Regulations, as it may deem expedient.

Also to call for and regulate such proceedings.

Second.—It shall also be competent to the said Court to call for the proceedings of any subordinate civil Court, and to issue such orders thereon as the case may require.

CHAPTER II.

OF ZILA COURTS, INCLUSIVE OF THE SUBSIDIARY COURTS OF THE ASSISTANT JUDGES.

Jurisdiction of Court in regard to receiving suits.

21. *First.*—The jurisdiction of the civil Court shall extend to the cognizance of all original suits and complaints between Natives and others not

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[a] Declared to apply to the whole of the Bombay Presidency except the Scheduled Districts, Act No XV of 1874.

[b] This section, with the rest of chapter I, was repealed by Act No XII of 1873, but as section 1 of that Act saves "every established jurisdiction," the High Court of Bombay regard section 5 of the Regulation as still in force. See now Act No XII of 1879, sec 92.

[c] Suits against certain persons of rank as well as suits on certain stated subjects, were exempted from the jurisdiction of the ordinary Courts, and separate agencies were established for their cognizance in the Dekkhan and Khándesh (Puna and Ahmadnagar) by Regulation XXIX. 1827, and in the Southern Mahratta country by Regulation VII 1830.

British-born subjects,[a] respecting the right to moveable or immoveable property, rents, Government-revenues, debts, contracts, marriage, succession, damages for injuries, and generally of all suits and complaints of a civil nature; it being understood that no interference on the part of the Court in caste-questions is hereby warranted, beyond the admission and trial of any suit instituted for the recovery of damages on account of an alleged injury to the caste and character of the plaintiff, arising from some illegal act or unjustifiable conduct of the other party.[b]

CHAPTER VI.

Of Pleaders.

Authorized pleaders to hold sanads.

47. *First.*—Natives or others may be authorized to practise in each Court as pleaders (vakíls) in behalf of parties in any judicial proceeding, being qualified by sanad according to the rules in the succeeding section.

Persons allowed to act.

Second.—No person shall be allowed to act in any such proceeding except such pleaders, or the parties themselves or their recognized agents.

Third.—[*Repealed by Act No. I of 1846.*]

Government pleader may hold general vakálatnáma.

Fourth.—In matters to which Government is a party, it shall be lawful for a pleader to act on a general vakálatnáma, to be issued by the officer under whose control the said matters are conducted, provided a duplicate be deposited in the zila Court of the district in which he practises.

Number of pleaders unlimited.

48. *First.*—The number of pleaders shall not be limited, but any person duly qualified and of unexceptionable character, shall be entitled to a sanad of appointment.[c]

Second.—[*Repealed by Act No. I of 1846.*]

Sanads to be furnished.

Third.—Each pleader, on being found qualified, shall be furnished with a sanad, under the seal of the Court of Sadr Díwání Adálat, in the form of appendix (J).[d]

Practice of pleaders how regulated.

49. The pleaders in the zila Courts shall practice each in such particular Court or Courts as may be assigned to them by the zila Judge, or indiscriminately in all the Courts of the respective zila, if it be not found necessary to appropriate the pleaders to particular Courts.

Pleader to file vakalatnáma.

50. *First.*—A pleader shall not be allowed to act in any suit or proceeding until he has obtained from the party, and filed in Court, a power-of-attorney (vakálatnáma), according to the form contained in appendix (K), appointing him pleader in the cause.

Retaining fee to be paid to pleader.

Second.—If a party engages a pleader to act in his behalf, he shall present him with eight annas as a retaining fee, for which the pleader shall

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[a] Superseded by Act XI, 1836.

[b] Repealed, except so far as it prohibits interference of the civil Courts in caste-questions, by Acts No. X of 1861, and No. XIV of 1869.

[c, d] See Act No. I of 1846, sec. 4, General Acts, vol. i, p. 59.

grant him a written acknowledgment, specifying the date of payment; and if the said retaining fee be not offered, the pleader shall demand it, and abstain from all proceeding until it be delivered.

Third.—If, after receiving the retaining fee, a pleader shall engage with, or act for, the other party, or refuse or omit to act on behalf of his client, he may be punished by a fine not exceeding rupees five hundred; or, if the matter in litigation be less than rupees two hundred and fifty, then not exceeding twice the amount of the sum in dispute between the parties; or, if the circumstances are of an aggravated nature, may be suspended or dismissed under the rules contained in section 56 of this Regulation.

Penalty for failure to perform engagement.

Fourth.—The fine may be inflicted by the Court in which the suit relative to which the failure of duty occurred may be pending.

Court empowered to fine.

51. *First.*—[*Repealed by Act No. X of 1861.*]

Second.—It shall be incumbent on a pleader, at the time of receiving any accounts, writings or documents from his client, to give a written receipt for them, and to restore them when required, under penalty of a fine not exceeding rupees one hundred, to be levied under the rules contained in the last clause of the preceding section; or, if the circumstances be of an aggravated nature, of suspension or dismission, according to section 56 of this Regulation.

Pleader to give receipts to client for papers and to return them when required. Penalty for misconduct.

52. *First.*—Each pleader employed in prosecuting or defending an original suit shall be entitled to a percentage on the amount sued for, according to the rates specified in appendix (L), as a remuneration for his trouble in acting in behalf of his client, until the decree in the suit is passed, and thereafter until such decree is fulfilled.

Fees in original suits.

Second.—The remuneration to a pleader employed in prosecuting or defending an appeal, regular or special, shall be the same as is above prescribed in the case of an original suit.

In appeals.

Third.—The above rules shall not prevent an express agreement being entered into between pleader and client, for either a larger or smaller sum than the established fee.

Private agreement not barred.

Fourth.—But, if a larger sum than was agreed for between a pleader and client is awarded in costs against the other party, the pleader, notwithstanding his agreement with his own client, shall be entitled to the excess when recovered.[a]

Pleader to have excess when costs awarded against other party exceed amount agreed upon.

53. *First.*—[*Repealed by Act No. XII of 1873.*]

Second.—Either party may engage two or more pleaders to conduct his suit or defence, but the party found liable in costs will not be answerable for more than the established fee of one pleader on behalf of the other party.

Several pleaders may be engaged, but without prejudice to opposite party.

[a] Modified by Act No. I of 1846, ss. 6 and 7. This section is to be enforced only when costs are awarded as between party and party; there is no statutory provision for costs between pleader and client, 9 Bom. 33.

Client may withdraw his vakálatnáma; but pleader not to withdraw without his consent or order of Court.

Third.—It shall be competent to a party at any time to withdraw the authority vested in a pleader to act in his behalf, on giving the Court notice in writing to that effect; but it shall not be competent to a pleader to withdraw from acting in behalf of his client without his consent or the special permission of the Court.

Pleader's absence to be reported.

54. *First.*—If a pleader is unable to attend the Court in consequence of indisposition or other necessary cause, he shall notify the same to the Court in writing, in which case proceeding in the suit shall be stayed for such time as the Court deems reasonable, to enable the party to transfer by endorsement or otherwise his power-of-attorney (either temporarily or until the suit is determined) to another pleader; and any pleader absenting himself without written notice as above prescribed may be punished by fine not exceeding rupees one hundred, to be adjudged by the Court in which the failure of duty occurred, and levied as the amount of a decree by the same.

Penalty for absence without notice.

Stay of proceedings on resignation or death.

Second.—In case of the resignation, dismissal or death of a pleader, proceedings in the suit shall in like manner be stayed.

55.—[*Repealed by Act No. I of 1846.*]

Pleaders liable to suspension or dismissal without prejudice to private action for damages.

56. A pleader accused of a criminal offence, or guilty of misbehaviour or neglect of duty, shall be liable to be suspended or dismissed under the rules regarding Commissioners, contained in the third clause of section 38[a] of this Regulation; but nothing herein contained shall prevent a party from instituting an action for damages against his pleader, when he may consider himself injured by his acts or omissions.

APPENDIX J.

(See section 48, clause 3rd).

Form of Sanad granted to a Pleader.

Seal of the Sadr Díwání Adálat.

To *A. B.*, inhabitant of ——.

In conformity with the provisions of Regulation II. A. D. 1827, you,

[a] Repealed by Act No. XIV of 1869. Section 38, clause 3, ran as follows:—

"A commission may be annulled by order of Government to the Sadr Díwání Adálat, or by the authority of that Court, a report being made to Government: the annulling order shall be executed through the medium of the zila judge, on precept addressed to him by the Sadr Díwání Adálat. commissioners may also, for misbehaviour or neglect of duty, be suspended from official employment and emolument by the zila judge, but such suspension shall be reported to the Sadr Díwání Adálat, and if the period of suspension exceed two months, the case shall be referred to the Sadr Díwáni Adálat, for its final orders, which shall further decide on the commissioner's eventual restoration or dismission: commissioners shall also be subject to the prosecutions and penalties specified in section 36 for the offences therein recited."

A. B., are hereby appointed to the office of Pleader in the Court of————: you will not be liable to be removed from your situation during your good behaviour, while you discharge your duty with zeal and integrity, under the rules contained in the Regulations which now are or hereafter may be in force.

By order of the Sadr Díwání Adálat.

(*Signed*) *By the Register.*

APPENDIX K.

(*See section 50, clause 1st*).

Form of Power-of-Attorney to enable a Pleader to act in a Suit.

In the Court of————.

Suit for Rs.————.

————Plaintiff,

against

————Defendant.

I————plaintiff (*or* defendant, *as the case may be*) do hereby authorize ————to appear and act as Pleader for me in the above suit.

Witness my hand, this——day of————, 18——.

(*Signed*) *or* (the mark of)

The Plaintiff.

or

Defendant.

APPENDIX L.

(*See section 52, clause 1st*).

Statement shewing the Fees to which Pleaders are entitled for acting throughout ordinary Suits when there is no specific Agreement.

The Pleader's fee is	In suits for not more than rupees 2,000 . . . three per cent.
	In suits for from rupees 2,000 to 10,000 inclusive,— on rupees 2000 as above, and on the remainder . . . . . two per cent.
	In suits for from rupees 10,000 to 20,000 inclusive,— on rupees 10,000 as above, and on the remainder . . . . . one per cent.
	In suits for more than rupees 20,000,— on that sum as above, and on the remainder . . . . . half per cent.

REGULATION IV OF 1827.

Passed on the 1st of January, 1827.

A Regulation prescribing the forms of proceeding of the Courts of law in civil suits and appeals, and rules for the trial of the same.

Law to be observed by Courts.

26. The law to be observed in the trial of suits shall be Acts of Parliament and Regulations of Government applicable to the case; in the absence of such Acts and Regulations, the usage of the country in which the suit arose; if none such appears, the law of the defendant, and in the absence of specific law and usage, justice, equity and good conscience alone.[a]

REGULATION V OF 1827.

Passed on the 1st of January, 1827.

A Regulation containing rules of judication respecting written acknowledgments of debts executed without receipt of a full consideration, also regarding the tendering payment of debts, and the disposal of property mortgaged or pledged.[b]

Preamble.

WHEREAS justice, the interests of trade, and the easy and secure transaction of money-dealings require that the effect of written acknowledgments of debts, when the receipt of a full consideration is contested, should be defined and made known, and that certain provisions should be framed for determining the effects of tenders of payment, and the rights of parties concerned in property mortgaged or pledged, the following rules have therefore been enacted:—

CHAPTER II.

OF ACKNOWLEDGMENTS OF DEBTS EXECUTED WITHOUT RECEIPT OF A FULL CONSIDERATION IN VALUE.

Proof of amount of debt.

9. *First.*—Written acknowledgments of debt in any shape shall not be held conclusive in a Court of law as to the amount, if the defendant shew that a full consideration has not been received.

Proof in case of cultivator sued on writ-

Second.—And in the case of a cultivator of the soil, sued upon a written acknowledgment executed at a place which was not at the time of such execu-

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[a, b] Declared to apply to the whole of the Bombay Presidency except the Scheduled Districts Act No. XV of 1874.

tion under British jurisdiction, if the circumstances are such as to convince the Court that the creditor might reasonably be expected to possess other proof of the amount besides such written acknowledgment (the consideration received for the same being contested), then the said writing shall not be held conclusive as to the amount, whether the defendant prove a deficiency in the consideration or not, but the Court shall pass a decree for only such amount as the claimant may otherwise prove to be due.

ing executed out of British jurisdiction.

CHAPTER IV.

How a Claim to Interest is affected by Tender of Payment.

14. If a debtor can prove that he has tendered to a creditor the whole or any portion of the amount due, all further interest shall cease on the amount tendered.

Interest ends upon tender made.

CHAPTER V.

Of the Disposal of Property mortgaged or pledged.

15. *First.*—When a creditor is placed in possession of property by mortgage or otherwise, as security for a debt, his claim over such property shall, in the absence of other special agreement, constitute his sole security for payment of the debt, or such part of it as the said property may have been given in security for, and interest thereon is to be considered as included in the said security.

Mortgaged property, if not otherwise agreed, is sole security for debt, principal and interest.

Second.—If the property yield profit, and no stipulation has been made respecting the disposal of the said profit, or payment of interest on the debt, the profit shall be considered as equivalent for the interest.

Profit from property reckoned in lieu of interest.

Third.—In the absence of any special agreement, or recognized law or usage to the contrary, either party may at any time, by the institution of a civil suit, cause the property to be applied to the liquidation of the debt, the surplus, if any, being restored to the owner.

Either party, unless otherwise agreed, may cause debt to be defrayed from property.

REGULATION VIII of 1827.

Passed on the 1st of January, 1827.

A Regulation to provide for the formal recognition of heirs, executors and administrators, and for the appointment of administrators and managers of property by the Courts.[a]

Whereas, at the same time that it is in general desirable that the heirs, Preamble.

[a] Declared to apply to the whole of the Bombay Presidency except the Scheduled Districts, Act No. XV of 1874.

executors or legal administrators of persons deceased should, unless their right is disputed, be allowed to assume the management or sue for the recovery of property belonging to the estate, without the interference of Courts of justice, it is yet in some cases necessary or convenient that such heirs, executors or administrators, in order to give confidence to persons in possession of, or indebted to, the estate to acknowledge and deal with them, should obtain a certificate of heirship, executorship or administratorship, from the zila Court;

And whereas, whenever there is no person on the spot entitled or willing to take charge of the property of a person deceased, or when the right of succession is disputed between two or more claimants, none of whom has taken possession, or where the heirs are incompetent to the management of their affairs and have no near relations entitled and willing to take charge on their behalf, or where a person possessed of property dies intestate and without known heirs, it is essential that the zila Court should appoint an administrator for the management of the estate; the following rules are therefore enacted.

CHAPTER I.

RULES FOR THE RECOGNITION OF HEIRS, EXECUTORS AND ADMINISTRATORS, WHEN THERE IS A COMPETENT CLAIMANT.

Legal heir, &c., of person deceased competent to represent him, without recognition from Court.

1. Whenever a person dies leaving property, whether moveable or immoveable, the heir or executor, or legal administrator, may assume the management, or sue for the recovery, of the property, in conformity with the law or usage applicable to the disposal of the said property, without making any previous application to the Court to be formally recognized. [a]

But if such recognition is requested,

2. *First.*—But if an heir, executor or administrator is desirous of having his right formally recognized by the Court, for the purpose of rendering it more safe for persons in possession of, or indebted to, the estate to acknowledge and deal with him, the Judge, on application, shall issue a proclamation, in the form contained in appendix (A), inviting all persons who dispute the right of the applicant to appear in the Court within one month from the date of the proclamation and enter their objections, and declaring that, if no sufficient objection is offered, the Judge will proceed to receive proof of the right of the applicant, and if satisfied, grant him a certificate of heirship, executorship or administratorship.

proclamation will be issued.

Second.—[*Repealed by Act No. XII of 1873.*]

And if no objection ap-

3. If, at the expiration of the time mentioned in the proclamation, no sufficient objection has been made, the Court shall forthwith receive such

[a] But see Acts No. XXVII of 1860, sec. 2, and No. XX of 1864, sec. 2.

proof as may be offered of the right of the person making the claim, and if satisfied, shall grant a certificate in the form contained in appendix (B), declaring him the recognized heir, executor or administrator of the deceased. pears, recognition will be granted.

4. *First.*—If, before the expiration of the time, any objection is made to the right of the person claiming as heir, executor or administrator, the Judge, on a day to be fixed (of which at least eight days' previous notice shall be given to the parties) shall summarily investigate the grounds of the objections on the one hand, and of the right claimed on the other, examining such witnesses or other evidence as may be adduced by the parties, and either grant or refuse a certificate, as the circumstances of the case may require. Objection appearing, to be examined; and recognition given or refused accordingly.

Second.—But if, from the evidence adduced, it appears that the question at issue between the parties is of a complicated or difficult nature, the Judge may suspend proceedings in the application for a certificate, until the question has been tried by a regular suit instituted by one of the parties. If question is complicated or difficult, matter to be left for adjudication.

5. Whenever an executor is formally recognized, under the rule contained in section 4, the authenticity of the will, if any, by which he is appointed, shall be proved, and the certificate of executorship shall be endorsed thereon. Authenticity of wills and recognitions how certified.

6.—[*Repealed by Act No. XII of 1873.*]

7. *First.*—An heir, executor or administrator, holding the proper certificate, may do all acts and grant all deeds competent to a legal heir, executor or administrator, and may sue and obtain judgment in any Court in that capacity. Recognized heir, &c, competent to manage property.

Second.—But, as the certificate confers no right to the property, but only indicates the person who, for the time being, is in the legal management thereof, the granting of such certificate shall not finally determine nor injure the rights of any person; and the certificate shall be annulled by the zila Court, upon proof that another person has a preferable right. But recognition gives no title to property.

Third.—An heir, executor or administrator, holding a certificate, shall be accountable for his acts done in that capacity to all persons having an interest in the property, in the same manner as if no certificate had been granted. Nor relieve from responsibility to claimants.

8. The refusal of a certificate by the Judge shall not finally determine the rights of the person whose application is refused, but it shall still be competent to him to institute a suit for the purpose of establishing his claim. Refusal of recognition no judgment against claim of applicant.

CHAPTER II.

Of the Appointment of an Administrator by the Zila Court, when there is no Heir or Executor competent and willing to be placed in Possession.

9. Whenever there is no person on the spot entitled and willing to take charge of the property of a person deceased, where the right of succession is When heir, &c., is present but undeter-

mined, or incompetent, disputed between two or more claimants, none of whom has taken possession, or where the heirs are incompetent to the management of their affairs from infancy, insanity or other disqualification, and have no near relations entitled and willing to take charge on their behalf, the Judge within whose jurisdiction such property is may appoint an administrator for the management thereof, until the lawful heir, executor or administrator appears, or the right of succession is determined, or the disqualification of the heir is removed, as the case may be, when the Judge, on being satisfied of the facts, shall direct the administrator in charge to deliver over the property to such person, with a full account of all receipts and disbursements during the period of his administration.

Judge may appoint administrator,

to be duly accountable when emergency at end.

If heir, &c., unknown, administrator to be appointed,

10. *First.*—Whenever any person dies intestate and without known heirs, leaving property, the Judge within whose jurisdiction the property is shall appoint an administrator for the management thereof, and shall issue a proclamation in the form contained in appendix (C), calling upon the heir of the deceased or any person entitled to receive charge of the property, to attend and prefer his claim.

and proclamation issued,

and published.

Second.—The proclamation shall be published, and if the deceased was a Native of any district or country without the limits of the Court's jurisdiction, and the property is of the value of rupees one thousand (1,000) or upwards, the proclamation shall also be published in the Government newspaper.

Heir, &c., appearing to be put in possession,

Third.—If any person appears and satisfies the Judge of his right to the possession of the property or any part of it as heir, executor, administrator or otherwise, it shall be delivered up to him, after deducting the necessary expenses of management.

and if no heir appears, reference to Sadr Díwání Adálat,

who will grant time, or order sale and proceeds to be deposited.

Fourth.—But if no person appears and establishes his right, the Judge, on the thirty-first December next after the completion of twelve months from the appointment of the administrator, shall make a report of the circumstances of the case to the Sadr Díwání Adálat, accompanied by an inventory and valuation of the property; and it shall be lawful for the Sadr Díwání Adálat, either to direct the property to continue for a further period under the management of the administrator, or to be sold by him under the authority of the Court, and the proceeds to be deposited in the public treasury for the eventual benefit of all concerned.

Administrators appointed by Court to give security,

and to be remunerated at discretion of Judge.

11. Whenever an administrator is appointed by the Judge under sections 9 and 10 of this Regulation, he shall, previously to entering upon the execution of his office, give security in a sum to be fixed by the Judge for the faithful discharge of his trust, and he shall be entitled to such remuneration as the Judge may fix for his trouble, but subject to modification by the Sadr Díwání Adálat, on the complaint of any person interested.

APPENDIX A.

Form of Proclamation to be issued, when a Person applies to be recognized as Heir, Executor or Administrator of one deceased.

PROCLAMATION.

IN THE COURT OF THE ZILA OF ——

WHEREAS *A. B.*, inhabitant of——,died at———,on or about the———day of———, and whereas *C. D.*, inhabitant of———, has presented an application to the Judge of the said zila, for the purpose of being formally recognized as heir [executor *or* administrator, *as the case may be*] of the said *A. B.*, this is to give notice to all persons who may dispute the right of the said *C. D.* as heir [executor *or* administrator, *as the case may be*] of the said *A. B.*, to appear in the Court of the said zila within one month from the date of this proclamation, there to enter their objections; and it is hereby declared that if no sufficient objection is offered before the expiration of that period, the said Judge will forthwith proceed to receive proof of the said *C. D.'s* right, and to grant him, provided he shall appear entitled thereto, a certificate of heirship, [executorship *or* administratorship, *as the case may be*] of the said *A. B.* deceased.

Dated at———this———, day of———.

(*Signed*) *By the Judge,*
Senior Assistant Judge,
or
Junior Assistant Judge.

APPENDIX B.

Form of Certificate to be granted to the recognized Heir, Executor or Administrator of one deceased.

IN THE COURT OF THE ZILA OF———

WHEREAS *A. B.*, inhabitant of——, died at——, on or about the——day of———, and application was made by *C. D.*, inhabitant of——to the Judge of the said Court, to be formally recognized as heir [executor *or* administrator, *as the case may be*] of the said *A. B.*; and whereas, the usual proclamation having been issued, no sufficient objection was offered to the right of the said *C. D.*; and whereas the said *C. D.* thereupon gave proof to the satisfaction of the Court of his right to be recognized as heir [executor *or* administrator, *as the case may be*] of the said *A. B.*;

This, therefore, is to certify that the said *C. D.* is the recognized heir [executor *or* administrator] of the said *A. B.* deceased.

Dated at———, this———day of———.

(*Signed*) *By the Judge,*
Senior Assistant Judge,
or
Junior Assistant Judge.

APPENDIX C.

Form of Proclamation to be issued when a Person dies Intestate, and without known Heirs, leaving Property.

PROCLAMATION.

IN THE COURT OF THE ZILA OF_____

WHEREAS *A. B.*, inhabitant of——, died at——, on or about the———day of——, leaving the following property at——, within the said zila, namely, [*here specify the property*]; and whereas no will of the said *A. B.* has been found, nor is it known if he has any heirs, This is to give notice to all persons claiming to be heirs, or to be entitled to receive charge of the said property, to attend and prefer their claim in the said Court, in order that, on such claim being proved, the said property may be delivered up to them.

Dated at———, this———day of———.

(*Signed*) *By the Judge,*
Senior Assistant Judge,
or
Junior Assistant Judge.

REGULATION XII OF 1827.

Passed on the 1st of January, 1827.

A Regulation for the establishment of a system of Police throughout the Zilas subordinate to Bombay, for providing rules for its administration, and for defining the duties and powers of all Police-authorities and servants.[a]

Power to make rules

19. *First.*—It shall be lawful for the Magistrate, when the public benefit

[a] Declared to apply to the whole of the Bombay Presidency except the Scheduled Districts, Act No. XV of 1874.

and comfort is in question, to institute rules respecting dharmsálas, liquor-shops, public wells, town-gates, and generally all places of public resort, regulating the hours at which they are to be open, the manner in which they are to be used, the equal and appropriate application of their accommodations, and such matters as conduce to maintaining orderly conduct among those who resort to them.

as to resort to dharmsálas, &c.

Second to Fifth.—[*Repealed by Act No. XVII of 1862.*]

Sixth.—In exercising the authority conferred by this section, the Magistrate shall commence by issuing an injunction, which, if a particular individual be concerned, shall be personal to him, otherwise it shall be notified by oral proclamation made, and written notice fixed and kept, at such place or places as may be best adapted to convey information to the public, or the class concerned; a copy of which shall, at the same time, be forwarded to the Court of Sadr Faujdári Adálat, and it shall remain in force, unless forbidden by that Court: and should any person persist in disobeying the injunction, the Magistrate may compel observance thereof by force, and punish disobedience by fine not exceeding one month's computed average income of the culprit, ordinary imprisonment without labour not exceeding one month, or any of these combined.

Publication of rules and submission to Sadr Faujdári Adálat.

Punishment for violating rules.

Seventh.—Provided, however, that, in all questions arising out of the preceding clause of this section, it shall be competent to any individual who may deem himself possessed of a private right, which cannot equitably be interfered with, to file a suit in the civil Court against the Magistrate to support his claim, and the Magistrate, if applied to, shall stay his proceedings for a reasonable period to allow of such suit being instituted.

Person deeming private rights infringed, may try case in civil Court.

Eighth.—The Magistrate shall also take charge of property found without an owner, and, if the provisions of Regulation VIII, A. D. 1827, chapter II, do not apply to the case, shall retain it for the eventual benefit of the said owner, on his defraying any expenses incurred; but at any period, when these may have amounted to the computed value of the property, it may be sold to defray the same.

Magistrate to take charge of property left without owner.

20. The Magistrate shall keep standards of such weights and measures as are used in retail-dealings throughout the districts under his charge, and they shall be open to the inspection of any one who may desire to examine them.

And keep standards of weights and measures.

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[a] So much of this clause as authorized the Magistrates or Police-officers to take charge of and dispose of cattle was repealed by Act No. III of 1857 and is here omitted.

CHAPTER III.

OF PRECAUTIONARY MEASURES FOR PRESERVING THE PEACE AND PREVENTING CRIME; COMPRISING—

Recognizance and security:
Expulsion:
Dispersing unlawful meetings:
Seizure of unlawful implements.

27, *First.*—[*Repealed by Act No. XVII of 1862.*]

Power to resort to other restrictions.

Second.—But the Magistrate is not precluded from adopting precautionary measures of a more lenient nature, in the case of a person who may be unable to furnish satisfactory recognizance or security for his attendance; such as, provided the Magistrate considers them sufficient for the purpose, allowing the party to remain under the inspection of some trustworthy person possessing influence over his conduct, or at some place of public resort, under charge of persons in usual attendance there; and similar measures may, under similar circumstances, be adopted to secure the good conduct of a suspected person; in which case additional restrictions may be made, as suggested by the party's habits, and the evil apprehended, such as prohibiting his leaving his residence, or certain limits, at particular times, or providing himself with a horse or arms, or any other restrictions which will not unreasonably affect his personal liberty, or deprive him of the means of procuring a livelihood; all which restrictions shall be notified to the party in writing, a copy thereof, with his signature, in token of assent, being kept by the Magistrate, and any breach thereof shall be punishable by ordinary imprisonment, without hard labour, for a period not exceeding six months, which penalty also shall be inserted in the instrument.

CHAPTER IV.

OF EXTRAORDINARY MEASURES CONDUCIVE TO THE APPREHENSION AND PUNISHMENT OF OFFENDERS; COMPRISING—

Aid, civil and military:
Rewards:
Pardon to accomplices:
Responsibility of villages and their Police-establishments for robberies:
Attachment of the property of fugitives:
Banishment of outlaws.

Villages liable to fine in case of

37. *First.*—When robbery has been committed within the boundary of a village, or the perpetrators of a robbery have been satisfactorily traced

thereto, and neglect or connivance be charged against the inhabitants or the Police-establishment, with regard to prevention, detection or apprehension, it shall be competent to the Magistrate to investigate the matter as a criminal offence, and if the fact be well substantiated, to exact a fine not exceeding the value of the property lost, the whole or part of which may be awarded in compensation to the owner, according as the degree of caution and activity which he evinced on the occasion may deserve. robbery committed within their bounds.

Second.—If the fine be awarded against the inhabitants at large, it shall be realized by the Collector in the same manner as revenue-demands, and paid to the order of the Magistrate; if against individuals of the Police-establishment, it shall be levied as directed for fines in general. Levy of fine.

REGULATION XIII OF 1827.

Passed on the 1st of January, 1827.

A Regulation for defining the constitution of Courts of criminal justice and the functions and proceedings thereof.

34, *First and Second.*—[*Repealed by Act No. XVII of 1862.*]

Third.—A Magistrate to whom a summons has been forwarded for execution may, if he see sufficient cause, either reduce or increase the amount of penalty or period of imprisonment stated in the summons, specifying his reasons for the same in his return, and it shall be competent to a Court, when the attendance of a public officer in permanent official employ, or of an individual of known respectability and prudent demeanour, is required, to notify the same to him by written order or letter, and take no other security than his returning the same with an endorsement signifying his acquiescence.[a] Alteration of penalties by Magistrate.

REGULATION XXII OF 1827.

Passed on the 1st of January, 1827.

A Regulation to declare and define military authority, in its relations to the civil power and to the community at large.[b]

WHEREAS the preservation of military discipline requires that special rules for its enforcement should be provided; and whereas it is expedient that in Preamble.

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[a] This clause is in force in as far as it authorizes the occasional substitution of a letter for a summons, Act No. XVII of 1862. It is declared to apply to the whole of the Bombay Presidency except the Scheduled Districts, Act No. XV of 1874.

[b] The unrepealed sections of this Regulation are declared to apply to the whole of the Bombay Presidency except the Scheduled Districts, Act No. XV of 1874.

certain cases, when persons belonging to or connected with the army are defendants, both civil and criminal jurisdiction should be exercised by Courts of military constitution, in lieu of the ordinary tribunals; and further, that certain matters connected with the military department should be cognizable by civil courts; and whereas it is also expedient that the mode of communication between civil and military authorities should be prescribed, and their right to call upon each other for aid defined; and that means of suppressing immorality at military stations and in camps should be provided; and whereas the British legislature has, in Act 4th Geo. IV, chap. 81, enacted certain rules for the above purposes, with relation to persons of particular descriptions, the same, so far as applicable, are adopted, with certain additional rules, in relation to such persons of similar descriptions as are subject to the Regulations of the Bombay Government, and are detailed in this Regulation.

Jurisdiction of military Courts constituted by sections 7 and 9 over—

3, *First.*—The military Courts hereinafter constituted by sections 7 and 9 for the cognizance of certain civil actions and criminal offences shall have jurisdiction over all persons of the following descriptions belonging to the Bombay Native Army and not being British-born subjects:—

Officers;

(1).—Officers bearing commissions in the military service of the Company;

Soldiers;

(2).—Persons enlisted in the military service of the Company, whether non-commissioned officers or privates;

Surveyors, draftsmen, medical attendants, and public servants appertaining to army;

(3).—Persons serving as military surveyors or draftsmen, or in the medical, commissariat, store, or veterinary departments, and, generally, all persons receiving public pay drawn by an officer in charge of a department appertaining to the army;

Sutlers and residents in camps;

(4).—Sutlers and camp-followers, including all persons residing or following any occupation at a cantonment or military station;

All but European troops belonging to Bombay.

(5).—The officers and soldiers of any description of troops (except European troops) being mustered and in pay, belonging to the Bombay establishment.

How far such persons exempt from civil jurisdiction.

Second.—The said persons are not thereby rendered free from civil jurisdiction, except in cases which may be specifically provided for by Act of Parliament or Regulation; but it is hereby enacted that when a civil officer shall have occasion to confine an officer or soldier, either commissioned or enlisted, he shall, as soon as possible, forward to the commanding officer of the station a communication, which shall be in the form of an extract from any periodical return which may be usually made by such civil officer to a superior authority, in order to denote the nature of the charge and its result.

Third.—And it is enacted in sections 3 and 17 of the Act 4th Geo. IV, chap. 81, that civil Magistrates and military commanding officers shall mutually aid each other in the apprehension of offenders subject to their respective authorities, the former by delivering up such as may have been apprehended by them, and the latter by using their utmost endeavour to assist the Magistrate's process against officers or soldiers.[a] Civil and military authorities to give mutual aid.

7, *First.*—Wherever any of the Company's forces may be employed beyond the jurisdiction of the Court of Requests established at the Presidency, actions for debt and all personal actions not exceeding four hundred (400) Bombay rupees in amount, against a person belonging, both when the suit is instituted and also when the cause of action arose, to any of the descriptions stated in section 3, clause first, of this Regulation, shall be cognizable before a Court of Requests composed of military officers, and not by the ordinary tribunals within the territories subordinate to Bombay; provided, however, that the superintendent of bázárs, or other staff officer when there is no superintendent, may be employed in lieu of the said Court as denoted in section 32. Military Court of Requests (the superintendent of bázárs occasionally supplying its place) may try certain suits.

Second.—The commanding officer of any station or cantonment is authorized to convene such Courts, which shall be composed according to the orders of the Commander-in-Chief, or commanding officer of the forces for the time being, or, in the absence of such orders, according to the discretion of the convening officer, either of not less than three European commissioned officers, or of not less than three Native commissioned officers with an European commissioned officer to superintend and record the proceedings.[b] How convened and composed.

Third.—Each member of the Court shall take an oath according to his religious tenets to do impartial justice: the forms, proceedings and records shall be as usual in Courts-martial, and the attendance and evidence of witnesses not subject to military law shall be procured under the rules contained in section 5 of this Regulation.[c] Its forms of procedure.

CHAPTER III.

Of Offences and civil Actions relating to the military Department, but cognizable in a civil Court.

18. Any person who shall furnish, or cause to be furnished, a false certificate whereby to excuse a soldier, British or Native, for his absence from muster or any other service, on pretence of his being employed on duty; or Penalty for making or aiding false musters.

a, c Repealed by Act No. V of 1863, except in so far as it regulates the jurisdiction in small suits of the superintendents of bázárs. Repealed wholly by Bombay Act No III of 1867 wherever that Act is in force.

b, c See Act No. XI of 1841, section 1.

being sick, in prison, or on furlough, shall be liable to a forfeiture not exceeding rupees 400, which shall be recoverable as a debt, on prosecution by the commanding officer of the station in any Court having jurisdiction over the offender in actions for debt, and when recovered, shall be disposed of as Government may direct; and further, the offender, if in the military service of the Company, shall be cashiered and incapacitated from holding any military office in the Company's service.

How enforced.

Penalty for receiving military equipment or stores.

19. Any person receiving in purchase, gift, exchange or otherwise any dress or arms, grain or forage, or articles of any nature known by such person to have been furnished by Government for the use of the British or Native troops, or any department of the army, shall, on conviction before the Magistrate or higher tribunal, be punishable with fine or imprisonment not exceeding four years, or both combined.

How value of embezzled or damaged stores to be recovered and disposed of.

20. Any Court having cognizance of actions for debt to whose jurisdiction a person who has been found guilty of the offence described in section 11, clause first,[a] may be subject, shall, on prosecution by the commanding officer of the station, pass a decree against such offender to the amount of any loss or damage ascertained by the Court-martial to have ensued, and the amount (which shall be recoverable by the usual process of law) shall be disposed of as Government may direct.

CHAPTER IV.

Of marking the Limits of Cantonments, and of the Appointment, Functions, and Authority of the Superintendent of Bázárs.

Limits of military stations how ascertained

21, *First.*—At military stations situated within the territories subordinate to the Presidency of Bombay, the limits of cantonments or bázárs shall, when directed by the Governor in Council, be marked by the local Magistrate and commanding officer in conjunction, subject to approval by the Governor in Council, in which limits private property is not to be included.

Plans to be kept.

Second.—The above-mentioned officers shall report the limits, with a plan thereof, to the Governor in Council, and when they have been approved, a plan shall be kept by the Magistrate, and another by the commanding officer.

Appointment of superintendent of bázárs.

22, *First.*—At every station where limits have been marked, as described in the preceding section, an officer, to be denominated superintendent of bázárs, shall be appointed by the Governor in Council.

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[a] Repealed by Act No. V of 1863. The clause is as follows:—

Section 11, clause first.—Any person of any of the descriptions specified in clause first of section 3, employed in the care or distribution of military stores, or any sort of public property applied to military purposes, who shall embezzle or fraudulently misapply or damage (or cause or connive at the same) any such stores or public property, may be tried for the same by a general Court-martial.

Second.—When by death, or illness, or absence, or any other cause, the superintendent of bázárs is unable to continue the duties of his office, the commanding officer shall appoint a person to act until the vacancy be supplied by the Governor in Council, to whom the commanding officer shall report the new appointment and its cause immediately.[a] Vacancies how supplied.

23. The superintendent of bázárs shall, under the immediate authority of the commanding officer, perform the duties assigned to him in this Regulation.[b] Superintendent subordinate to commanding officer.

24. The superintendent of bázárs shall have charge of such official establishment, for maintaining order and convenience in the limits of the cantonment, and enforcing rules established for that purpose by the commanding officer, subject always to the control of Government, as may be placed at his disposal.[c] Superintendent to have charge of Police-establishment.

25, *First.*—The superintendent shall have authority to take evidence on oath or solemn declaration, when necessary in the course of his duties, and a false statement made before him on such occasions, shall be punishable as if it had occurred in a Court of criminal judicature. And empowered to take evidence.

Second.—And if a person (not being a British-born subject) found within the limits of the cantonment refuse to attend or give answer when summoned by the superintendent to give evidence, he shall be confined until he complies. How to procure evidence of persons within military limits.

Third.—And if the evidence of a person without the said limits be required, it shall be procured by application to the civil Court.[d] And of those without.

26, *First.*—The superintendent shall try and punish the offences specified in this section, committed within the limits of the cantonment by any person not being a British-born subject, provided the said offences be not of such a nature as is described to be within the jurisdiction of a Court-martial. Superintendent may take cognizance of certain offences.

Second.—But he shall not take cognizance of such offences unless the charge be made within ten (10) days after the offence was committed, nor unless the offender be apprehended within the limits of the cantonment within three (3) months of the offence having been committed. When he may take such cognizance.

Third.—In cases of trivial assault, petty theft, riotous conduct, abusive language or calumny, using false weights or measures, issuing false or counterfeit coin, or having in possession more than five pieces of such without lawful excuse; and also in cases of breach of such rules as may have been established by the commanding officer for maintenance of order, duly promulgated by beat of drum and by a translation into the language current in the cantonment, and signed by the Brigade Major or other staff officer of the station, being fixed in some conspicuous part of the bázár; and in cases Offences cognizable.

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a, b, c, d Repealed by Bombay Act No. III of 1867 wherever that Act comes into force.

of misconduct on the part of servants, such as insolence, disobedience, neglect or quitting service without a month's previous warning, the superintendent is authorized to adjudge a fine not exceeding fifty (50) rupees, or corporal chastisement not exceeding twenty-four (24) rattans, or to confine the offender for a period not exceeding one month; and if the fine be not paid, the offender is, in lieu thereof, to be confined for a period not exceeding one (1) month.[a]

How superintendent to dispose of offenders on whom he is not authorized to pass sentence.

27. If any person within the limits of the cantonment be charged with an offence of which the superintendent is not authorized to take cognizance, or if it be of such a nature as to require greater punishment than he is authorized to inflict, he shall report the case to the commanding officer, in order that it may be brought before an authority competent to try it.[b]

29.—[*Repealed by Bombay Act No. V of 1878.*]

Sentences to be confirmed by commanding officer,

30. The superintendent of bázárs shall not execute any sentence, either in the criminal or excise branch of his duties, until he has submitted his proceedings to the commanding officer, who shall have power to suspend, mitigate, remit or confirm the sentence, expressing his final order by endorsement on the paper containing the same; his trials in the said branches shall also be recorded in writing as usual on Courts-martial, and he shall furnish to the commanding officer, on the first of each month, a return of sentences executed during the preceding month, stating the dates of sentences, names of offenders, nature of offences, and the sentences, as in the following form :—

and proceedings recorded.

Return to be made to commanding officer,

*RETURN of Punishments and Confiscations inflicted by the Superintendent of Bázárs, at————during the month————*A.D.————.

Date.	Name of prisoner.	Offence.	Sentence.
3rd	Jhan Muhammad ...	Stealing copper pots, value Rs. 25.	20 Stripes.
7th	Ibráhim Musa ...	Smuggling a cask of maura.	The maura confiscated.

1st of——A.D.——.

(*Signed*)————,
Superintendent of Bázárs.

and forwarded to Commander-in-Chief.

which return the commanding officer shall forward to the Commander-in-Chief on the fifteenth of the month in which received.[c]

a, b, c Repealed by Bombay Act No. III of 1867 wherever that Act comes into force.

c Repealed by Act No. IV of 1854 so far as it relates to sentences of fine not exceeding three rupees, or imprisonment not exceeding three days.

31. All fines imposed and levied by the superintendent of bázárs otherwise than by virtue of section 28 are to be applied as directed by orders from the Governor in Council.[a] Fines how disposed of.

32, *First.*—With the view of providing speedy justice in cases where the amount in dispute is trifling and delay is seriously inconvenient, the superintendent of bázárs shall have authority to receive, try and decide in a summary manner pecuniary claims coming within the jurisdiction of the Court of Requests, as described in section 7, provided that the sum in dispute shall not exceed rupees (30) thirty. Superintendent may try certain cases for debt.

Second.—In trying the suits falling under his cognizance by virtue of the preceding clause, the superintendent of bázárs shall procure the attendance and evidence of witnesses under the rules of section 25, and shall record his proceedings and his decree in writing, as usual in Courts-martial, and in the English language; the decree shall be countersigned by the commanding officer, on whose order it shall further be executed in the mode prescribed in section 8 for decrees of the Court of Requests; a monthly return of his decisions, according to the following form, shall also be furnished by the superintendent to the commanding officer on the first of each month, and shall be forwarded on the fifteenth of the said month to the Commander-in-Chief. His proceedings how recorded and decrees how executed. Returns to be furnished monthly.

RETURN of Decisions in Suits for Debt, passed by the Superintendent of Bázárs at_____, during the month of_____.

Date of decree.	Names of parties.	Matter in dispute.	Decree.
15th July, 18—	*A. B.* against *C. D.*	Rs. 25, for grain supplied.	For the plaintiff, Rs. 15.

(*Signed*) _____

1st August, 18—. *Superintendent.*

Third.—In all disputes regarding expulsion from caste, marriage, succession, adoption, the right or title to immoveable property, or other matters not of a pecuniary nature, the interference of the superintendent shall be limited to the object of preserving the peace, and preventing or correcting any change in the relative situation of the parties previously to a judicial decision of the point in dispute. Certain civil suits triable only by regular courts, superintendent interfering only as Magistrate.

[a] Repealed by Bombay Act No III of 1867 wherever that Act comes into force.

CHAPTER V.

PROCESS BY CIVIL AUTHORITY HOW TO BE CONDUCTED WITHIN THE LIMITS OF CANTONMENTS.

Communications of civil officers with superintendent.

33. When a civil officer shall have occasion to communicate officially with the superintendent of bázárs, he shall transmit his communication under cover to the commanding officer, who shall forward any answer that may be required.[a]

Execution of attachments within military limits.

34, *First.*—When any process of attachment or sale of property, or arrest of person for debt, to take effect within the military limits, is issued by any Court of Justice except the Supreme Court at the Presidency, the process shall first be carried to the commanding officer, or senior officer within the limits, who shall immediately back the same with his signature, and give his utmost assistance to the officer in executing the process according to its tenor.

Rules not to apply to citations or arrest for offences.

Second.—But nothing herein contained shall be construed to prevent the service by the officer of the Court, in the usual way, of any process of mere citation, nor of process of arrest for offences cognizable by the said Court.

Report of arrest.

Third.—But if a person is arrested under the last preceding clause, the officer of the Court shall immediately report the circumstance, and produce the warrant, to the superintendent of bázárs for the information of the commanding officer.[b]

CHAPTER VII.

OF THE AID WHICH MAY BE FURNISHED BY CIVIL AUTHORITIES TO EXPEDITE THE MARCH OF MILITARY FORCES, AND OF COMPENSATION TO INDIVIDUALS FOR DAMAGE CAUSED BY THE TROOPS ON SUCH OCCASIONS.

Notice to Magistrates through whose jurisdictions troops pass.

40. When military bodies, exceeding in number two hundred (200) of infantry, or one hundred (100) of cavalry, shall have occasion to march through a British territory, and also, if the number be smaller, provided they will require aid from the local authority, the commanding officer shall give timely notice to each Magistrate through whose jurisdiction he will pass, specifying the probable time of his arrival, the extent of the corps, and the nature of the aid (if any) which will be required.

Aid to be furnished by Magistrate.

41, *First.*—If it be required, the local Magistrate shall direct his establishment to be in readiness to procure guides, and such supplies of provisions as the country may furnish, and such conveyance for passing rivers or ghâts, or any peculiarly difficult places, as is professionally provided by the inhabitants for such purposes.

[a, b] Repealed by Bombay Act No. III of 1867 wherever that Act comes into force. As to execution of civil process within cantonments, see now Act No. X of 1877, section 460, amended by Act No. XII of 1879, section 74.

Second.—Provisions and conveyance supplied as above mentioned to individuals shall be paid for by them at the time and at the current rate of the place, the guides and conveyance for public property shall be paid for at the same rate by the Collector of the district, according to a certificate which the commanding officer is to grant, denoting the services performed; and the Collector is to insert the amount so disbursed at the foot of his treasury-account, in explanation of his treasury-balance as prescribed for similar cases. How paid for.

42, *First.*—When emergent occasions require the immediate march of troops, and more extensive aid towards it than is allowed by the preceding section is necessary, the local Magistrate may resort to impressment under the following rules, being careful to define the nature of the employment for which the impressment is made, and the period it is to continue. On emergent occasions aid may be procured by impressment.

Second.—The Magistrate's authority for acting as in the preceding clause shall be either an order from the Governor in Council, or a letter from the commanding officer, declaring his inability to proceed without the Magistrate's aid, and fully explaining the circumstances which render the movement of paramount importance to the general inconvenience occasioned by impressment, on receipt of which the Magistrate will act at discretion. What considered as constituting emergency.

Third.—Remuneration for services or supplies procured by impressment is to be fixed by the Magistrate on a liberal scale, and paid according to the principles of clause second, section 41, of this Regulation, namely, individuals are to pay for that which is personal accommodation, and the Collector is to defray the charges incurred for the public service under the above-quoted rules. Remuneration how made.

Fourth.—Whenever impressment shall take place by virtue of this section, the Magistrate shall, within ten (10) days, report the fact, with the cause and extent of impressment, and the rates of remuneration allowed, to the Governor in Council. Magistrate to report when he resorts to impressment.

43, *First.*—When damage is occasioned to individuals by the march or encampment of troops, the commanding officer shall, on application by the sufferer, furnish him with a certificate of the nature, extent, and cause thereof. Certificate to be furnished to person sustaining injury.

Second.—The certificate mentioned in the preceding clause shall, if presented to the Collector or any of his officers holding charge of a district within ten (10) days from its date, entitle the sufferer to compensation for loss occasioned by such movements or positions of the troops as are *bonâ fide* of a military nature. Effect of certificate.

Third.—On a demand being made by virtue of this section to the Collector, he shall inquire into its merits, and if satisfied that it is just, shall apply to Government for permission to pay it; if the Collector think the demand is not just, or if Government withhold permission to pay it, the complainant may bring the case to decision according to the process of civil law by instituting a suit against the Collector. Suit against Collector when to be instituted.

CHAPTER VIII.

OF REQUISITIONS FOR MILITARY AID BY CIVIL AUTHORITIES.

Military aid how procured at Presidency.

44. Whenever civil officers may require guards or military aid at the Presidency, they are to apply to the Governor in Council through the channel prescribed for public correspondence.

Permanent guards how procured at out-stations.

45. Permanent guards for protection of jails or treasuries, or official purposes in general at out-stations, shall be furnished according to instructions issued by the Governor in Council, to whom the civil officer requiring them will apply in the first instance: in the interim of such application, if delay should appear likely to occasion injury to the public service, the civil officer will apply for a temporary guard according to the rules of the succeeding section.

Temporary aid how procured at out-stations.

46, *First.*—When temporary guards or escorts are required at out-stations, the civil officer making the requisition is to state fully and circumstantially to the commanding officer at the station the nature of the service to be performed, and the commanding officer will furnish such force as he may think requisite for the purpose.

Commanding officer how to act when objecting to requisition.

Second.—If the commanding officer to whom a requisition is made shall perceive any substantial objection to a compliance therewith, he shall be at liberty to suspend the same, and refer the case to the Commander-in-Chief, who, if he does not think it proper to order compliance with the requisition, shall lay the matter before the Governor in Council for decision.

Civil officers to report to Government military guards employed.

47. Civil officers employing military guards or escorts either permanent or temporary shall, on the first day of each month, transmit to Government a statement of such as may have been employed during the preceding month.

REGULATION XXV OF 1827.

Passed on the 1st of January, 1827.

A Regulation for the confinement of State-prisoners and for the attachment of the lands of Chieftains and others for reasons of State.[a]

Preamble

WHEREAS reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign Powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection, and

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[a] Declared to apply to the whole of the Bombay Presidency except the Scheduled Districts, Act No. XV of 1874. See Act No III of 1858, s. 2.

the security of the British dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceedings, or when such proceedings may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper; and whereas it is fit that, in every case of the nature herein referred to, the measures adopted should emanate immediately from the Governor in Council; and whereas the reasons above declared sometimes render it necessary that the estates and lands of zamíndárs, taluqdárs and others situated within the zilas subordinate to Bombay, should be attached and placed under the temporary management of the Revenue Authorities, without having recourse to any judicial proceeding; the following rules have therefore been enacted:

CHAPTER I.

RULES FOR THE APPREHENSION AND CONFINEMENT OF INDIVIDUALS AS STATE PRISONERS.

Proceeding for placing persons under restraint as State-prisoners.

1, *First.*—When any of the considerations stated in the preamble of this Regulation may seem to the Governor in Council to require that an individual should be placed under restraint, without any immediate view to ulterior proceedings of a judicial nature, it shall be lawful for the Governor in Council, provided always that, with reference to the individual, the measure shall not be in breach of British law, to cause such individual to be apprehended in such manner as the Governor in Council may deem fit, and when apprehended, to be delivered over to any officer in whose custody it may be deemed expedient that he shall be placed, with a warrant of commitment to such officer's address.[a]

Form and authority of warrant.

Second.—The warrant of commitment shall be in the form specified in appendix (A), and shall be sufficient authority for the detention of any State-prisoner in any fortress, jail or other place within the zilas subordinate to Bombay.

Allowance for support of State-prisoner.

2. The Governor in Council shall fix such allowance for the support of the State-prisoner as may seem to him expedient in reference to the prisoner's habits and rank in society, and shall specify at the same time through whose means it is to be paid and how it is to be applied.

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[a] So much of this clause as provides that, with reference to the individual, the apprehension and confinement therein referred to shall not be in breach of British law, was repealed by Act No. III of 1858, except so far as the said provision applies to European British subjects.

Report to Government as to conduct, &c., of prisoner.

3. Every officer in whose custody any State-prisoner may be placed shall, on the first of January and first of July of each year, submit a report to the Governor in Council, through the Secretary to Government in the Political Department, on the conduct, the health and the comfort of such State-prisoner, in order that the Governor in Council may determine whether the orders for his detention shall continue in force or shall be modified.

Prisoner in custody of officer other than Magistrate by whom to be visited.

4, *First.*—[*Repealed by Act No. XII of 1873.*]

Second.—When any State-prisoner is placed in the custody of any public officer not being a Magistrate, the Governor in Council shall instruct either the Magistrate, or any other public officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods, and to submit a report to Government regarding the health and treatment of such prisoner.

Report to Government as to confinement, &c, of prisoner.

5, *First.*—Every officer in whose custody any State-prisoner may be placed shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor in Council whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life.

Representations of prisoner to be submitted

Second.—The officer in whose custody any State-prisoner may be placed is to forward, with such observations as may appear necessary, every representation which such State-prisoner may from time to time be desirous of submitting to the Governor in Council.

6.—[*Repealed by Act No. XII of 1876.*]

CHAPTER II.

Rules for the Attachment of Lands for Reasons of State and for removing such Attachment.

Attachment of estates by order of Government without decision of Court.

7. Whenever the Governor in Council, for reasons of the nature of those specified in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any zamíndár, jágírdár, taluqdár or other person without any previous decision of a Court of justice, or other judicial proceeding, the grounds on which the resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the Secretaries to Government, to the Judge and the Magistrate or other civil authorities of the district in which the lands or estates may be situated.

Management of attached lands.

8, *First.*—The lands or estates which may be temporarily attached shall be held under the management of the officers of Government in the Revenue Department, and the collections shall be made and adjusted on the same principles, if consistent with the rights of others, as had been followed by the proprietor, provided, however, that any change may be introduced which the proprietor may desire, and which may not infringe on private rights, nor appear objectionable to the Collector; and annual accounts of the management of the lands attached shall be furnished to the proprietor.

Attached lands how saleable in execution. Income applicable to satisfaction of decrees.

Second.—Such lands or estates, while so under attachment, shall not be liable to be sold by process of law, or otherwise, without the mutual consent of Government and the proprietor; but the annual income or any portion of it may, if Government shall so direct, be applicable to the satisfaction of decrees of the civil Court.

Rules as to cases where Government orders release from attachment.

9. Whenever the Governor in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the Revenue Authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estates which may have accumulated during the attachment.

APPENDIX A.

To the (*here insert the officer's designation*).

WHEREAS the Governor in Council, for good and sufficient reasons, has resolved that (*here insert the State-prisoner's name*) shall be placed under personal restraint at (*here insert the name of the place*), you are hereby ordered, in pursuance of that resolution, to receive the person above-named into your custody, and to deal with him in conformity to the orders of the Governor in Council and the provisions of Regulation XXV, A. D. 1827.

By order of the Governor in Council,

(*Signed*) *A. B.*,

Secretary to Government.

Bombay Castle,
———day of———18——.

REGULATION XXIX OF 1827.

Passed on the 1st of August, 1827.

A Regulation for bringing under the operation of the Regulations the Bombay territories in the Dekkhan and Khándesh.[a]

Preamble.

WHEREAS, subsequently to the conquest by the Company of the territories of the late Peshwa, in the Dekkhan and Khándesh, and the acquisition from other States by treaties and agreements of other territories within the said countries, the Governments of all the said territories have, with the view of avoiding the abrupt introduction of extensive change, been conducted under the orders of the Governor in Council, constituting a system which was calculated gradually to prepare the way for the introduction of the general rules of the British administration; and whereas the Regulations for the administration of the Bombay territories have in the meantime been revised, and it has now been judged expedient to bring the territories in the Dekkhan and Khándesh under the revised Regulations, being the first twenty-six (26) Regulations of 1827, with certain modifications; the following rules have been enacted:

Regulations made applicable to Dekkhan and Khándesh.

2, *First.*—The first twenty-six (26) Regulations of 1827 [with the exception of Regulation XVIII and of any enactments relating to Stamps[b]] shall, from the first September, 1827, be of force and effect, except as specifically enacted to the contrary, throughout the Bombay territories in the Dekkhan and Khándesh, consisting of the zilas of Puna and Ahmadnagar, as described in appendix (A) to this Regulation.

Second.—[*Repealed by Act No. XII of 1876.*]

Persons excluded from jurisdiction of Courts.

3, *First.*—With reference to the said zilas, suits against certain persons of rank, as hereinafter specified, shall not come under the jurisdiction of the civil Courts.

List to be furnished to Judge.

Second.—A list of the said persons of rank will be furnished by Government to the Judge, who will, on application, communicate the same to any person who, as plaintiff or defendant, may shew that his interest requires his being supplied with that information.

Agent to be appointed for trial of suits against them.

4, *First.*—An Agent of Government shall be specially appointed for the purpose of receiving and trying and deciding all complaints of a civil nature which would, under the ordinary rules, be cognizable by either of the Judges

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[a] Partially repealed by Act No. VI of 1842 and by Act No. IV of 1868. Extended to the Southern Marátha country (Dhárwár) by Regulation VII of 1830, sec. 2.

[b] As to the words in brackets, see Bombay Regulation IV of 1838 (now repealed), which enacted that the provisions of Regulation XVIII of 1827 and of any enactments relating to stamps, be brought into operation in the Bombay territories in the Dekkhan and Khándesh, including Sholapur.

of Puna and Ahmadnagar, against any of the persons contemplated in the preceding section: he shall be furnished with a list of the said persons of rank, and with instructions descriptive of the respective rules of procedure to be followed in the case of each such person, and he shall communicate to any individual making application so much of the above-mentioned information as such individual may shew to be important to his own interest. List and instructions to be furnished to him.

Second.—The list above-mentioned shall comprise three (3) classes of persons of rank; and the instructions above-mentioned shall provide three (3) several modes of procedure, applicable respectively to each class of the said persons of rank. List and instructions what to comprise and provide.

5, *First.*—Suits against the persons belonging to the first of the classes comprised in the Agent's list, being individuals of the very first distinction and influence under the Peshwa's Government, on account of their birth, their political importance, or the religious estimation in which they were held, shall be conducted and decided by the Agent, reference being had in the most ample degree to the privileges of the defendant by former usage and custom enjoyed, and to other peculiar characteristics of the case conformable to like usage and custom; Conduct of suits against first class persons.

and no decree against any such defendant shall be enforced, until the suit and all proceedings thereon shall have been referred to the Governor in Council (to whom also the plaintiff may appeal) who, as a special superior Court for the adjustment of such suits, will pass such order thereon as he may deem just and equitable, an appeal to the King in Council being open to either party. Decrees not to be executed without reference to Government. Appeal.

Second.—Suits against the persons belonging to the second of the classes comprised in the Agent's list, being individuals not equal in consideration to those above adverted to, but of high rank and importance under the Peshwa's Government, shall be conducted and tried by the Agent, reference being had in a great degree, and in conformity to former usage and custom, to the rank of the defendant, his situation and privileges, under the Peshwa's Government, as affecting his creditor's means of compelling payment during that period, his present means of discharging the debt, and other points material to the real equity of the plaintiff's claim and the defendant's liability. Conduct of suits against second class persons.

An appeal against the Agent's decision to the superior Court of the Governor in Council, as above constituted, shall be open to either party: Appeal to Government.

the petition of appeal shall be presented either to the Agent or to Government within ninety (90) days (which period may be extended for good reasons) after the Agent's decision was passed: the rules for trial and decision of such appeal shall be the same as those prescribed for the original trial of the suit, and a final appeal to the King in Council shall be open to either party. Limitation.

Third.—Suits against the persons belonging to the third of the classes Conduct of

suits against third class persons.

comprised in the Agent's list, being individuals inferior in rank to those of the classes previously described, but still equitably entitled, on account of the privileges hitherto enjoyed by them, to a certain special degree of consideration, shall be conducted and tried by the Agent, in like conformity to usage and custom, with some relaxation of the rules of the general Regulations, and some portion of attention to the points above specified for regulating his decisions in suits against individuals of the two superior classes.

Appeal to Sadr Adálat.

An appeal to the Sadr Díwání Adálat, against the Agent's decision, shall be open to either party;

Limitation.

the petition of appeal shall be presented, either to the Agent or to the Sadr Díwání Adálat, within ninety (90) days (which period may be extended for good reasons) after the Agent's decision was passed: the rules for trial and decision of such appeal shall be the same as those prescribed for the original trial of the suit; with which view the instructions of the Agent, with regard to the defendant, shall be communicated by Government to the Sadr Díwání Adálat; and a final appeal to the King in Council shall be open to either party.

APPENDIX A.*

(See section 2, clause 1st.)

Territorial description of the Zilas in the Dekkhan and Khándesh, established under the Presidency of Bombay; formed of conquests from the Peshwa (proclamation of Occupation, 11th February, 1818), and cessions from Holkar (treaty 6th January, 1818), Sindia (treaty 6th February, 1820), and the Nizám (treaty 12th December, 1822).

ZILA OF PUNA.

The two (2) tarafs Haveli-Puna and Karyát-Mával.

The fifteen (15) following villages of the taraf Keru Bára, namely:—

1 Sivra,
2 Kondhanpur,
3 Kulyán,
4 Ráhtavḍa,
5 Ombra,
6 Árvi,
7 Divra,
8 Kámsa,
9 Khetkavla,
10 Kumbosi,
11 Gávardari,
12 Gogalváḍ,
13 Kaumthaḍi,
14 Kheḍ Sivápur,
15 Kelvaḍ.

* Partially repealed by Act No. XI of 1846.

The three (3) following villages of the taraf Musa Khora, namely :—

1 Jámli,
2 Sonápur,
3 Sángrun.

The three (3) following villages of the taraf Muta Khora, namely :—

1 Ámbegaon,
2 Bhávli,
3 Ámbi.

The two (2) following villages of the taraf Kánad Khora, namely :—

1 Vinjer,
2 Ántioli.

The eighteen (18) tarafs, Sándas, Pátas, Pánbal, Máhlunga, Ausiri, Kheḍ, Chákan, Ghoḍa, Váḍa, Ámbegaon, Junna, Votur, Ála, Bela, Markhoḍa, Kokatner, Minner and Náráyangaon.

The ten (10) following villages of the taraf Kurda, namely :—

1 Ámbi,
2 Khámbori,
3 Barádi,
4 Lavki,
5 Nándur Kandumál,
6 Bhaugri,
7 Áldara,
8 Lingdi,
9 Ghásgaon,
10 Pimpalgaon Jog.

The three (3) tarafs, Andar Mával, Náni Mával and Pauḍ Khora.

The thirty-two (32) following villages of the taraf Paun Mával, namely :—

1 Karunj,
2 Ámbegaon,
3 Pusáni,
4 Chándkheḍ,
5 Kila,
6 Shevti,
7 Sindgaon,
8 Pávla,
9 Kurda,
10 Siravli,
11 Ghivandi Álvan,
12 Ápti,
13 Kauter Khaḍak,
14 Malavli,
15 Shivli,
16 Áridiv,
17 Shivner,
18 Bauver,
19 Thugaon,
20 Pardavḍi,
21 Mahágaon,
22 Kusgaon,
23 Yelsi,
24 Bebarvohol,
25 Riha,
26 Pauchana,
27 Bersi,
28 Badavli,
29 Árra,
30 Ursi,
31 Gotavra,
32 Ádala Khurd.

The three (3) tarafs, Kari Pathár, Sásvaḍ and Supa.

So much of the two (2) tarafs, Nír Thaḍi and Sirval as lies north of the Níra river.

The six (6) tarafs, Indápur, Bárámati, Mohol, Undartappa to the west of the Sína river, Bhusa and Temburni.

The four (4) following villages of the taraf Karkam, namely :—

1 Gursáli,	3 Karola,
2 Bádalkot,	4 Ujini.

The two (2) following villages of the taraf Káthi, namely :—

1 Sorsti,	2 Shankargaon.

The three (3) tarafs, Sholápur, Ahirváḍi and Mandrup.

The five (5) following villages denominated the Sammot Phutgaon, namely :—

1 Andál,	4 Dárphal,
2 Muránchi,	5 Mangrul.
3 Nerkheḍ,	

The seven (7) tarafs, Indi, Támba, Hippargi, Jalvad-Kokatnúr, Almel, Bardul and Ukli.

The three (3) following villages of the taraf Haveli Bijápur, namely :—

1 Ukmanhál,	3 Ahleabad.
2 Kaulga,	

The four (4) following villages of the taraf Horti, namely :—

1 Ránjanhál,	3 Tilihál,
2 Minchanhál,	4 Kyátilkiri.

The qasba of Sindgi.

The six (6) following villages of the taraf Honváḍ, namely :—

1 Jálihál,[a]	4 Árálhalli,
2 Rámtirat,	5 Kaltavteghi,
3 Yetinhál,	6 Ghonasghi.

The seven (7) following villages of the taraf Ánti, namely :—

1 Áralhatti,	5 Balgheri,
2 Abihál,	6 Sambárga,
3 Tangarri,	7 Bemanhál.
4 Mangsula,	

The two (2) following villages of the taraf Halsanghi, namely :—

1 Bhatgunki,	2 Gotihál.

The six (6) following villages, namely :—

1 Ávarkor,	4 Tingni Bidri,
2 Hina Parsalghi,	5 Hongalhalli,
3 Surpál,	6 Kárjol.

The two (2) tarafs, Tálikoti and Nálatváḍ.

[a] This village, having been transferred by exchange to the Sátára State, was excepted from the operation of the Regulations by Act No. VI of 1842.

The qasba of Bágevádi and the two (2) villages of Masbinhál and Yervál.

The four (4) following villages in the taraf Muhammadpur, namely :—

1 Jaynápur,
2 Budeni,
3 Upaldinni,[a]
4 Gurodhál.

The village of Bhágánagar, taraf Sednák.

The seven (7) following villages of the taraf Chimalghi, namely :—

1 Disálkop,
2 Mijarkop,
3 Mukartihál,
4 Golsinghi,
5 Gharri,
6 Liklevádi,
7 Maundghi.

ZILA OF AHMADNAGAR.

(*Ahmadnagar Collectorship.*)

Bársi Panch Maháls.

The Peshwa's share of the pargana Doka.

The village of Vághola in the Dhárur pargana.

So much of the pargana Haveli-Parinda as lies west of the Sína river, and the village of Sonári to the east of the said river.

The two (2) parganas of Jámkhed and Vánghi.

The Peshwa's share of Pránt Karrevarit and that part of the Nizám's share which lies west of the Sína river.

The Peshwa's share of the Ashti pargana and the taraf Mánur.

The two (2) tarafs, Nagar Haveli and Ránjangaon.

The pargana Párner.

The nine (9) following villages in taraf Belha, namely :—

1 Davalgaon,
2 Orngaon,
3 Karnjavna,
4 Babra,
5 Kolgaon,
6 Sidori,
7 Ukargaon,
8 Isápur,
9 Ándalgaon.

The two (2) parganas of Kharda and Nevása, except the village of Jalka.

The two (2) tarafs, Gánjí-Bhoyra and Vávrad.

The pargana Bárágaon Nandur.

The Peshwa's share of the two (2) parganas Bijápur and Gándápur, together with the village of Tákli.

The pargana Sangamner, together with the three (3) qasbas of Ráháta, Puntámba and Whává.

The thirteen (13) parganas, Dhándarphal, Kotúl, Akola, Sinnar, Kumbhári, Pátoda, Násik, Trimbak, Vághera, Vani, Dindori, Shevgaon and Chándor.

[a] This village, having been transferred by exchange to the Sátára State, was excepted from the operation of the Regulations by Act No. VI of 1842

(*Khándesh Collectorship.*)

The thirteen (13) parganas, Laling, Sougir, Ner, Amalner, Betávad, Dhángri, Garondol, Jalod, Chandshahar, Bhadgaon, Bhál, Utrán and Masva.

The pargana Páchora which belongs to Sindia, but is governed by the British.

The taraf Lohára-Haveli which belongs to Sindia, but is governed by the British.

The taraf Sángvi in the Lohára pargana.

The five (5) parganas, Shendurni, Chálisgaon, Rájdesh, Máhombárái and Mánikpuri.

The eighteen (18) following villages of the Kanna pargana, namely :—

1 Rolter,	10 Kanedi,
2 Rohilla,	11 Jalgaon,
3 Porkri,	12 Jámdi,
4 Malligaon,	13 Tunvana,
5 Chámpáner,	14 Palásgaon,
6 Hingna,	15 Málpur,
7 Náydongri,	16 Vetalpur,
8 Sáhkegaon,	17 Makrandarpur,
9. Kadra,	18 Narsinhpur.

The two (2) qasbas of Ránjangaon and Játegaon.

The twenty-four (24) parganas, Gálna, Chikhalvohol, Tokra, Jhoḍga, Lohoner, Vákhári, Sándas, Jayteypur, Pissol, Tilvad, Koráli, Otur, Pála, Hátgad, Kanási, Pimpla, Pimpalner, Dhaiva, Vársa, Bhámen, Navápur, Nandurbár, Sultánpur and Kukarmunda.[a]

The three (3) qasbas of Pánkeṛa, Umarpatta and Chaupála.

The principality of Akráni.

The pargana of Chopḍa which belongs to Sindia, but is governed by the British.

The two (2) parganas of Thálner and Ámba.

The qasba of Sindva.

The pargana of Yával which belongs to Sindia, but is governed by the British.

The two (2) parganas of Áḍávad and Sávda.

The village of Chángdev.

The pargana of Ráver, including the taraf of Pál.

The four (4) parganas of Nusirabad, Jámner, Bodvaḍ and Bornár.[b]

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[a] The three last named of these parganas were specially excepted by Act No. XI of 1846, and placed under charge of an Agent of the Governor.

[b] See additional villages brought under the Regulations by Regulation X of 1830.

REGULATION VII OF 1830.

Passed on the 17th of March, 1830.

A Regulation for bringing under the operation of the Regulations the territories comprised in the Southern Marátha Country, belonging to the Honourable Company, and forming the said Territories into a Zila.[a]

Preamble. WHEREAS the administration of the territories of the Southern Marátha Country, acquired by conquest by the Honourable Company from the Peshwa, and by treaty and agreement from other States, has been hitherto conducted under the orders of the Honourable the Governor in Council, the Regulations being in force in the said territories as instructions to be acted upon, as far as circumstances, under the recent acquisition, might dictate, and as preparatory to the formal introduction of the Regulations, as established laws; and whereas the said country and territories having now, by order of the Honourable the Court of Directors, been finally annexed to the Presidency of Bombay, the Honourable the Governor in Council has judged it expedient to form the said territories into a zila, to be denominated the zila of Dhárwár, and to introduce and establish therein the Regulations now in force under the Presidency of Bombay, in the same manner, and upon the same principles, as in the territories of the Dekkhan and Khándesh, under the provisions of Regulations XXIX and XXX of 1827; the following rules have therefore been enacted:

Territories formed into zila. 1. The territories of the Southern Marátha country, as described in appendix (A) to this Regulation, are hereby formed into a zila, to be denominated the zila of Dhárwár.

Brought under operation of Regulations. 2. The said zila is brought under the operation of the general Regulations now in force under the Bombay Presidency, with the exceptions and according to the rules provided in Regulations XXIX and XXX of 1827, for the territories of the Dekkhan and Khándesh, as the same may not have been modified by any subsequent enactment, and with the exceptions of the following sections.[b] Exceptions.

3, 4.—[*Repealed by Act No. XII of 1873.*]

Creation of Political Agent to try suits against persons of rank, under modification. 5. There shall be a Political Agent in the Southern Marátha country, on the part of Government, for the trial of suits against persons of rank; and in modification of the rules contained in section 3 and the following sections of Regulation XXIX, 1827, it is enacted that suits against such persons, of whom

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[a] Partially repealed by Act No. VI of 1842.

[b] So much of this section as makes section 6 of Regulation XXIX of 1827, applicable to the territories comprised in the Southern Marátha country, was repealed by Act No. X of 1876.

of section 3, Regulation XXIX, 1827.

a list shall be furnished by Government to the Agent, shall be tried by him in the same manner, and under the same rules as are enacted for the Agent of Sardárs' claims for the Dekkhan

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APPENDIX A.

Territorial description of the zila of the Karnátak or Southern Marátha Country, under the Presidency of Bombay, formed by conquests from the Peshwa (Proclamation of occupation, 11th February, 1818), cession by the Rájá of Kolhápur; (Definitive treaty, 15th March, 1829), reversion of jágírs on failure of direct heirs, resumption of a part of the Sángli jágír in lieu of service, and the transfer of two tálukás from the Puna zila (Order of Government dated 19th November, 1829).

The thirty two (32) parganas, Dhárwár, Navalgund, Gadag, Bankápur, Shiggaon, Hángal, Adur, Mishríkot, Old Hubli, New Hubli, Eyarni, Guttul, Kagenellee, Kod, Hirekerúr, Chikkerúr, Kuppelrúr, Tilvalli, Kháná-pur, Murgod, Bágalkot, Rolli, Bilgi, Bádámi, Kerúr, Mudkavi, Hungund, Nandvargi, Indi, Támba, Hippargi and Jalvadkokatnúr.

Pargana Kardga (with the exception of the villages of Savalgaon, Bálihalli, Jogeshvar, Kondúr, Voginkeri, Indúr, Arshenágeri and Hungund, included in the Sonda Province, under the Madras Presidency; Yáribudihál, belonging to Chintáman Ráo Sáheb Sánglíkar; Yellápur, belonging to Mádhav Ráo Sáheb Mirajkar; and Savanúr, Holanhulli, Chillur, Tobada-Hulikatti Gabbúr, Mankatti, Jekinkatti, Torúr, Siddápur, Yekkíkhop, Kebbanúr, Vaddinakop, Naikerúr, Tendúr, Manúr, Niralkatti, Dommar-Mattúr, Mulkerri, Mádápur, Basavankop, Chandápur, Kallivál, Nandihalli, Honnikop and Surapakatti, belonging to the Nawáb of Savanúr).

Pargana Nirsangi (with the exception of the villages of Váralgi, and Vonikerri, included in the Sonda Province, under the Madras Presidency).

Pargana Tarás (with the exception of the villages of Bálinhalli and Kalkeri, included in the Sonda Province, under the Madras Presidency).

Pargana Páchhápur (with the exception of the villages of Bassápur, Haggedáhál, Arlekatti, Serúr, Sháhbandar, Islámpur and Ghutguddi, belonging to the Rájá of Kolhápur; Tammarguddi and Harankolla, belonging to Chintáman Ráo Sáheb Sánglíkar; and Budihál and Malbemardí, belonging to Raghunáth Ráo Sáheb Kurundvádkar).

Pargana Ráne Bennur (with the exception of the village of Man-Mílár included in the Bellári district, under the Madras Presidency).

Pargana Rattehalli (with the exception of the village of Ukadgatri, belonging to the Rájá of Mysore).

Pargana Mausúr (with the exception of the villages of Khaváspur and Guladhalli, belonging to the Rájá of Mysore).

Pargana Almella (with the exception of the villages of Haukoánhalli and Murganúr, belonging to the Surpur Rájá, Nizám's territories).

Pargana Bardol (with the exception of the village of Umraz, belonging to Govind Ráo Sáheb Patvardhan).

Pargana Tálikotta (with the exception of the villages of Bhattnúr, Taggartaggi, Állápur, Nágávi-Állápur, Náráyanpur, Holikeri and Vadgerri, belonging to the Surpur Rájá, Nizám's territories).

Pargana Nálatváḍ (with the exception of the villages of Madlingad-halli, Kol-guda and Bassápur, belonging to the Surpur Rájá, Nizám's territories).

The six (6) tarafs Kárkop, Máradági, Ugargol, Morab, Medlári and Vatnál.

The twenty-two (22) Karyáts Áminbhávi, Nárendar, Devar-Hubli, Tadkod, Ekkundi, Betigera, Ambadgatti, Sampgaon, Bágevadi, Kádarvalli, Golchalli, Nandgaḍ, Halsangi, Kakkeri, Kárlagi, Lokoli, Manoli, Mazti, Yelli-Manoli, Sadalgi, Sindogi and Sattigerri.

Karyát Nesargi (with the exception of the village of Madanbhávi, belonging to Siddoji Ráo Náik Nimbálkar, Sar-Lashkar, alias Nipánikar).

Karyát Belváḍi (with the exception of the village of Doddvá, belonging to Chintáman Ráo Sáheb Sánglikar).

Karyát Kabbúr (with the exception of the village of Belákod, belonging to Siddoji Ráo Náik Nimbálkar, Sar-Lashkar, alias Nipánikar).

The five (5) Sammats Tegúr, Kalkeri, Kalghatgi, Bommikatti and Tumba.

The twelve (12) villages under the Fort of Kalánidhigaḍ.

Fort of Hire Gandharvagaḍ and its dependencies, Fort of Gajendragaḍ and its dependencies.

The five (5) following villages of the pargana Nargund, namely :—

1 Tadáhál,
2 Karkikatti,
3 Auchmatti,
4 Gulugundi,
5 Revadekop.

The thirteen (13) following villages of the pargana Govinkop, namely :—

1 Benkankop,
2 Arshingod,
3 Hanchináll,
4 Hadgali,
5 Kuralgeri,
6 Khánápur,
7 Madgunki,
8 Gobbargumpi,
9 Bettad Kusogal,
10 Harlápur,
11 Govankopp,
12 Mallápur,
13 Jávur.

The four (4) following villages of the pargana Ajamnagar, namely :—

1 Qasba Belgaum,
2 Hindalghi,
3 Sindoli,
4 Mannur.

The eight (8) following villages of the pargana Sháhápur, namely :—

1 Kudchi,
2 Kanábergi,
3 Chandánhosur,
4 Dhémni,
5 Muchandi,
6 Yulbail,
7 Modga,
8 Chandgad.

The village Chikkvadávalli of the pargana Shirhatti.

The seven (7) following villages of the pargana Lakshmeshvar, namely :—

1 Sanklipur,
2 Badni,
3 Vithalpur,
4 Hamigi,
5 Gummágol,
6 Mallikárjunpur,
7 Chákinkeri.

The village of Budihál of the pargana Kundgol.

The village of Algundi of the pargana Máchaknúr.

The seven (7) following villages of the pargana Ukli, namely :—

1 Qasba Ukli,
2 Mangoli,
3 Kumatgi,
4 Bissalhál,
5 Nandihál,
6 Yembatnahál,
7 Hattarkihál.

The four (4) following villages of the pargana Horti, namely :—

1 Rájanhál,
2 Minchanhál,
3 Tilihál,
4 Kyátankerri.

The six (6) following villages of the pargana Honvád, namely :—

1 Jalihál,[a]
2 Rámtírth,
3 Yetinhál,
4 Árahalli,
5 Kalkavteghi,
6 Ghonasghi.

The three (3) following villages of the pargana Bágevádi, namely :—

1 Qasba Bágevádi,
2 Masbinahál,
3 Yernál.

The nine (9) following villages of the pargana Alni, namely :—

1 Aralhatti,
2 Abihál,
3 Tangarri,
4 Mangsuli,
5 Balgheri,
6 Sambárga,
7 Bomanhál,
8 Madbhávi,
9 Pártanhalli.

[a] This village, having been transferred by exchange to the Sátára State, was excepted from the operation of the Regulations by Act No. VI of 1842.

BENGAL SECRET

The village of Bhahtgunki, of the pargana Halsangi.
The village of Avarkod, of the pargana Garrikokatnúr.
The village Parsalghi, of the pargana Bidari.
The two (2) following villages of the pargana Ghot, namely :—

1 Surpa,	2 Tingni Bidri.[a]

The two (2) following villages of the pargana Mulvád, namely :—

1 Honganhalli,[b]	2 Karjol.[c]

The seven (7) following villages of the pargana Chimalghi, namely :—

1 Bisalkop,	5 Ghani,
2 Majrekop,	6 Siklevádi,
3 Mukartihál,	7 Máradghi.
4 Golsinghi,	

The village of Bhágánagar, of the pargana Sidhanath.
The three (3) following villages of the pargana Muhammadápur, namely :—

1 Jaynápur,	3 Upaldinni.[d]
2 Budenr	

The two (2) following villages of the pargana Terdál, namely :—

1 Sapta Ságar,	2 Khemlápur.

The three (3) following villages of the pargana Mangalvedha, namely :—

1 Kavtholi,	3 Amba.
2 Donaj,	

The village Konnur, in the pargana Jamkhandi.
The four (4) following villages of the pargana Vithal Vishrám, namely :—

1 Rájgoti,	3 Supa,
2 Kundanur,	4 Turkevádi.

The six (6) following villages of the pargana Mulgund, namely :—

1 Bandvád,	4 Bassápur,
2 Kanávi,	5 Sittaulhari,
3 Hossur,	6 Seruj.

The four (4) following villages of the taraf Konnur, namely :—

1 Hirekop,	3 Hágnúr,
2 Hampiholi,	4 Belleri.

The four (4) following villages of the taraf Sánkli, namely :—

1 Kelila,	3 Hollada,
2 Mendila,	4 Tánáli.

The three (3) following villages of the taraf Maneri, namely :—

1 Mirvala,	2 Morula,	3 Vádi.

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a, b, c, d These villages, having been transferred by exchange to the Sátára State, were excepted from the operation of the Regulations by Act No. VI of 1842.

The two (2) following villages of the taraf Harlápur, namely :—

1 Narsápur,	2 Vobalápur.

The village Rokadkatti of the taraf Bannúr.

The three (3) following villages of the Karyát Asundi, namely :—

1 Asundi,	3 Kurvankop.
2 Karekatti,	

The fourteen (14) following villages of the Karyát Huli, namely :—

1 Qasba Huli,	8 Dáderikop,
2 Kapli,	9 Bingadákatti,
3 Manikatti,	10 Konkankujhatti,
4 Belvanki,	11 Tuppadákurhatti,
5 Kaujgeri,	12 Yámgal,
6 Rottigávád,	13 Hulikatti,
7 Adnur,	14 Sortur.

The three (3) following villages of the Karyát Ingalhalli, namely :—

1 Nalvadi,	3 Sirguppi.
2 Mullahalli,	

The two (2) following villages of the Karyát Hebli, namely :—

1 Qasba Hebli	2 Sevalli.

The three (3) following villages of the Karyát Adgal, namely :—

1 Nippanhál,	3 Biranhál.
2 Alaknúr,	

The twenty (20) following villages of the Karyát Sholápur, namely :—

1 Qasba Sholápur,	10 Kanagalla,
2 Náganúr,	11 Hitni,
3 Gudikuppi,	12 Rásingkhurd,
4 Hargápur,	13 Hadalga,
5 Karajgi,	14 Bahirápur,
6 Shendur Orásing Buzurg,	15 Sankeshvar,
	16 Tavdi,
7 Shenkinhosúr,	17 Buktialúr,
8 Honnoli,	18 Ankla,
9 Konankeri Pimpalgaon,	19 Bákunhál,
	20 Baur.

The nine (9) following villages of the Karyát Sávgaon, namely :—

1 Benodi,	6 Bhátnágnúr,
2 Haddanál,	7 Audi,
3 Mattivád,	8 Savdalga,
4 Rongnoli,	9 Hanchinhál.
5 Sulgaon,	

The eighteen (18) following villages of the Karyát Laut, namely :—

1 Chinchni,	10 Budihál,
2 Jettrát,	11 Kodáni,
3 Náhinglej,	12 Kurli,
4 Hunargi,	13 Akkol,
5 Siddanhál,	14 Muhammadápur,
6 Yernál,	15 Buddalmukh,
7 Padlchál,	16 Rumtoli,
8 Lakhnápur,	17 Pángra,
9 Gawhán,	18 Girgaon.

The seven (7) following villages of the Karyát Naiz, namely :—

1 Mauza Chikoḍi,	5 Ammangi,
2 Peth Chikoḍi,	6 Naiz,
3 Galatga,	7 Kunnúr.
4 Kotheli,	

The thirteen (13) following villages of the Karyát Nesri, namely :—

1 Peth Daddi,	8 Khavneváḍi,
2 Auladhál,	9 Shettihalli,
3 Attehál,	10 Bilki,
4 Rámeváḍi,	11 Salámváḍi,
5 Bedarváḍi,	12 Kot,
6 Modga,	13 Dhondgatti.
7 Nágánúr,	

The village Bágani of the Karyát Dudgaon.

The three (3) following villages of the taraf Haveli Bijápur, namely :—

1 Ukmanhál, | 2 Kaulga, | 3 Ahleabad.

The twenty-six (26) following villages of the Tappa Chandgaḍ, namely :—

1 Qasba Chandgaḍ,	14 Hambera,
2 Kodoli,	15 Khámdal,
3 Bágalga Dukkarváḍi,	16 Paunla,
4 Sipúr,	17 Kokara,
5 Sávarda,	18 Isápur,
6 Gulvada,	19 Koneváḍi,
7 Vágothar,	20 Umgaon,
8 Mángaon,	21 Návga,
9 Kolindra,	22 Pilni,
10 Adúr,	23 Jámbera,
11 Naundarida,	24 Nahareli,
12 Asgaon,	25 Bhogoli,
13 Sula,	26 Kolindra.

The four (4) following villages of the Pránt Ráybág, namely :—

1 Akkevát, 3 Ingli,
2 Naugaz, 4 Ankáli.

The twenty-eight (28) following villages of the Pránt Miraj, namely :—

1	Hattánúr	...	Karyát Tásgaon.
2	Kudchi	...	Do. Maisal.
3	Chandúr	...	
4	Qasba Isápur	...	Do. Isápur.
5	Chikkalgothan	...	
6	Nanbalka	..	
7	Bedaga	..	Do. Bedaga.
8	Gundevádi	...	
9	Gaurvád	...	Do. Shirhatti.
10	Aurvád	...	
11	Tákli	...	
12	Brahmanál	..	Do. Sángli.
13	Padamál	...	
14	Tung		Do. Degraz.
15	Hingangaon	...	Do. Kavta Máhankál.
16	Dhámni	... ..	Do. Haveli.
17	Vásamba	...	Do. Kavta.
18	Zarandi	.. ...	Do. Anjani.
19	Kaulaga	... ...	Do. Sávarda.
20	Karoli	... .	Do. Desing.
21	Shipur	... .	Do. Ainápur.
22	Bekiri	.. ..	Do. Jugal.
23	Rájápur.		
24	Nandikurli	... ...	
25	Kerúr	...	
26	Yedúr	...	
27	Kalhola	.	
28	Sháhápur	... ...	

The two (2) following villages of the Pránt Kágal, namely :—

1 Mauzari, 2 Allásanda.[a]

The thirty-eight (38) following villages, not belonging to any particular pargana or other territorial division, namely :—

1 Saundatti, 3 Hálkusugál,
2 Koteváda, 4 Kalkeri,

[a] See note, p 38.

5 Malligvád,	22 Daustikop,
6 Mugutkhán Hubli,	23 Hutikottal,
7 Amrápur,	24 Badas,
8 Virápur,	25 Kukkadolli,
9 Handúr,	26 Jiknúr,
10 Talvárkop,	27 Devar Sigehalli,
11 Márgankop,	28 Ettagi,
12 Kásimalgi,	29 Gandhigvád,
13 Ambegápur,	30 Toligi,
14 Bilámarri,	31 Qasba Hukeri,
15 Hulgánhál,	32 Peth Hukeri,
16 Keárkop,	33 Chulki,
17 Gazpatti,	34 Goravbál,
18 Gádikop,	35 Kaggalhál,
19 Hattiholi Khurd,	36 Gorvankolla,
20 Alagankop,	37 Bassedon,
21 Bogúr,	38 Sindgi.

REGULATION XIII OF 1830.

Passed on the 31st of March, 1830.

A Regulation for vesting certain jágírdárs, saranjámidárs and inámdárs, with the power of deciding suits within the boundaries of their respective estates.[a]

Preamble.

WHEREAS, in accordance with former custom, and in many instances agreeably to original tenure, jágírdárs, saranjámidárs and inámdárs have been permitted to exercise civil jurisdiction within their possessions; and whereas it has been considered expedient to continue, by specific enactments, to such persons the power of filing, trying and deciding original suits, the following rules have been enacted :—

Power to grant sanads to jágírdárs and others, authorizing them to try suits.

1, *First.*—It shall be competent for the Governor in Council to grant sanads to persons of the description stated in the above preamble, whose names and possessions are enumerated in a list furnished by Government, conferring on them authority to try and determine all original suits of whatever amount that may be either filed in their Courts, or may be referred to them by the Agent or Judge.

[a] Declared to apply to the whole of the Bombay Presidency, except the Scheduled Districts, Act No. XV of 1874. Extended to Agents of foreign Sovereigns and others by Act No. XV of 1840.

Sanads to define jurisdiction.

Second.—The sanads shall define the territory or jágír over which the jágírdárs' jurisdiction extends, and be drawn out according to the form marked (A) in the appendix.

Sanads granted only for life.

Third.—Such sanads shall only be granted for life; and without such sanad no jágírdár, saranjámidár or inámdár shall be considered as having the authority to hear and decide civil actions, unless on arbitration or by consent of the parties.

Government may withhold or withdraw them.

Fourth.—In granting sanads, the Government reserves to itself the right of withholding, and, if issued, of afterwards withdrawing, them, if from any cause such course should be deemed necessary in particular cases.

Persons within jágírdár's jurisdiction to bring disputes before him.

2, *First.*—All persons residing within the jurisdiction of a jágírdár must bring their civil disputes for adjudication before him, unless where the parties mutually agree to the contrary; or where one or the other is an European or American, or where one being the relation or dependent of the jágírdár, the other objects on that ground.

Suits to be sent to Agent or Judge.

Second.—Suits thus excepted shall be sent up to the Agent or Judge, who will dispose of them, either by trying them, or by referring them for trial.

Decree to be passed by jágírdár.

Third.—The jágírdár shall pass a written decree recording the proceedings held, and his judgment on every action or suit tried before him.

Decisions of jágírdárs final.

3, *First.*—Decisions passed by the jágírdárs enumerated in the list furnished by Government shall, in conformity with their right and authority by tenure, be final.

Appeal from decisions of other jágírdárs.

Second.—The decisions of all other jágírdárs shall be open to appeal, according to the rules regarding appeal, if in the first and second class of sardárs of the list provided for by clause second, section 3, Regulation XXIX of 1827, to the Agent for the adjustment of sardárs' claims; if of the third class of the said list, to the Judge.

Appeal from decisions in appeal.

Third.—Decisions by these authorities in these appeals shall be open to[a] the Sadr Díwání Adálat, when, if the original judgment is confirmed, the amount adjudged or at issue is rupees (1,000). one thousand.: if modified or reversed, the amount at issue is rupees (200) two hundred.

Decrees not liable to be set aside for want of form.

Fourth.—Decrees by a jágírdár shall not be liable to be set aside for want of form in the proceedings, but only for matters affecting the justice of the decision.

Execution of decrees

4. Jágírdárs shall have authority to execute their own decrees, and application for execution of decrees refused by the jágírdár may be received by the Agent or Judge.

Special appeals.

5. A special appeal is open in all cases to the Sadr Díwání Adálat.

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[a] *Sic* in the original and in Clarke's editions. *Read* "open to appeal to."

APPENDIX A

(See section 1, clause 2nd).

Form of Sanad to be granted to a Jágírdár, Saranjámidár or Inámdár, for deciding Suits.

Seal.

The Honourable the Governor in Council, by virtue of the powers vested in him by Regulation XIII of 1830, is pleased hereby to confer on you jágírdár (*or* as the case may be) power to receive, try and decide all such original suits as may be preferred to you for moveable or immoveable property, of whatever amount, or referred to you by the Agent or Judge, whereof both parties, or the defendant or defendants, in such suits shall be resident within the boundary of your jágír, &c., as hereafter defined; provided such parties shall not mutually agree to the contrary; or one or other of them shall not be an European or American; or, being your own relation or dependent, the adverse party shall not object on that account.

The boundaries of your jágír, over which your jurisdiction, as above set forth, extends, are hereby defined to be

The within-delegated power is vested in you during the pleasure and subject to the recall of the Honourable the Governor in Council.

REGULATION I OF 1831.

Passed on the 5th of January, 1831.

A Regulation for extending the jurisdiction of the Agent of Government, acting under the provisions of section 4, Regulation XXIX of 1827, over suits in which persons of rank of the privileged classes are concerned, and which are now cognizable by the Collectors of Land-revenue.

Preamble. WHEREAS it has been deemed expedient to extend the jurisdiction of the Agent of Government acting under the provisions of section 4, Regulation XXIX of 1827, to suits connected with land, its rent and produce, wherein

persons of rank of the privileged classes established by that Regulation are concerned; the following rules have accordingly been enacted:

Suits connected with land, rent and produce, which are cognizable by Agent.

1. Suits connected with land, its rent and produce, wherein persons of rank of the privileged classes established by Regulation XXIX of 1827[a] are concerned, shall hereafter be cognizable only by the Agent of Government acting under the powers vested in him by section 4, Regulation XXIX of 1827, and under the same rules as are prescribed for his guidance in other cases.

REGULATION XVI OF 1831.

Passed on the 14th of September, 1831.

A Regulation for extending the jurisdiction vested in the Political Agent in the Southern Marátha country, under the provisions of section 5, Regulation VII, A. D. 1830, to the cognizance of civil suits of the nature specified in Regulation I, A. D. 1831, and also for the better defining the extent of jurisdiction therein conferred with respect to persons of the privileged classes.

Preamble.

WHEREAS it has been deemed expedient to extend to the Political Agent in the Southern Marátha country, as Agent of Government, the cognizance of suits of the nature specified in Regulation I, A. D. 1831,[b] and to define more expressly the extent to which such suits shall be cognizable before the Agent of Government; the following rules have therefore been enacted:

Suits cognizable before Political Agent of Southern Marátha country.

1. Suits of the nature specified in clause first, section 1, Regulation I, A. D. 1831, shall also be cognizable before the Political Agent in the Southern Marátha country, as Agent of Government, and shall be tried by him in the same manner, and under the same rules, as are prescribed for his guidance in section 5, Regulation VII, A. D. 1830.[c]

Regulation I, 1831, section 1, clause 1, explained.

2. And it is further explained, with reference to clause first, section 1, Regulation I, A. D. 1831, that such suits shall be cognizable before the Agents of Government only when the persons of the rank of the privileged classes shall, in the original suit, stand in the relation of defendants.

[a] See *supra*, p. 28. [b] See *supra*, p 45.
[c] See *supra*, p. 35

REGULATION I OF 1834.

Passed on the 5th of January, 1834.

A Regulation for abolishing the office of Deputy Agent for Sardárs in the Dekkhan, and for rescinding Regulation V of 1828, which defines the duties and jurisdiction of that office.

Preamble. WHEREAS it having been determined by Government to abolish the office of Deputy Agent for the adjustment of claims against Sardárs in the Dekkhan, the following rules have been enacted, to have effect from the date of promulgation.

1.—[*Repealed by Act No. XII of 1873.*]

Suits transferred from Deputy Agent. 2, *First*—Suits of the description heretofore tried by the Deputy Agent shall be heard and decided by the Agent.

Second.—[*Repealed by Act No. XII of 1873.*]

PART II:

THE UNREPEALED ACTS OF THE SUPREME COUNCIL RELATING TO BOMBAY.

ACT No. XIX of 1835.

Passed on the 9th of November, 1835.

Appointment of assistant to Agent, for Sardárs in Dekkhan.

Be it enacted, that it shall be competent for the Governor in Council of Bombay to appoint the Assistant Judge of the Zila Court of Puna to be assistant to the Agent for Sardárs in the Dekkhan, and it shall be competent to the Agent for Sardárs to refer to his assistant original suits against Sardárs for amounts not exceeding 5,000 rupees; and in the trial of such suits the assistant shall follow the same rules which are now applicable to the Agent; and every decree of the assistant shall be open to an appeal to the Agent within (30) thirty days from the date of the decree; and every decision of the Agent on such appeal shall be open to a special appeal under the provisions of chapter XXII,[a] Regulation IV of 1827 of the Bombay Code, to the Governor in Council, or to the Sadr Adálat, according as the rank of the Sardár may subject him to the jurisdiction of either authority, provided that such last-mentioned appeal shall be brought within (90) ninety days after the date of the decree of the Agent.

ACT No. VII of 1836.[b]

Passed on the 28th of March, 1836.

Authority of certain Regulations.

1. It is hereby enacted, that the legality of acts done and levies made under Regulations III and IV of 1817, and VII of 1818, and IV of 1821, and XIX, XX and XXI of 1827, and XV of 1828, and XX of 1830, and II and XIII of 1831, and I and X of 1833 of the Bombay Code, shall not be questioned in any Court of law whatever.

[a] Repealed by Act No. X of 1861

[b] This Act is repealed by Act No. VIII of 1868 except as regards duties leviable on salt or opium. The legality of acts done and levies made under the repealed Bombay Regulations XXI of 1827 (as to opium and spirits) and XX of 1830 (as to Malwa opium) cannot therefore be questioned in any Court of law

ACT No. XVI of 1838.[a]

Passed on the 23rd of July, 1838.

Suits to be brought in civil, and not Revenue-Courts.

1. *First.*—In the territories subject to the Presidency of Bombay, all suits in regard to tenures, and the nature and extent of the interest and advantage which in virtue thereof should be enjoyed by the parties concerned, and all suits in which the right to possession of land is claimed, shall be brought in the Courts of Adálat and the Courts subordinate thereto, and not in the Courts of revenue.

Second.—[*Repealed by Bombay Act No. III of 1876.*]

Third.—[*Repealed by Bombay Act No. II of 1866.*]

Procedure on suit being presented to superior Court doubting its jurisdiction.

2. If a suit be presented in the Court of a Judge or Collector, which such Judge or Collector shall not deem within his jurisdiction, the party presenting such suit shall be referred by the Court in which it may be first presented to that in which, in the opinion of such Court, the jurisdiction lies, and the latter Court shall, in the event of its doubting its jurisdiction in the case, refer the question of jurisdiction to the Sadr Díwání Adálat, whose decision on the point shall be final.

And in subordinate Court so doubting.

3. If a suit be presented in any Court subordinate to the Court of a Judge or Collector, which suit such subordinate Court shall not deem to be within its jurisdiction, such subordinate Court shall submit the case to the Judge's or Collector's Court to which such subordinate Court is subordinate; and if the superior Court to which the case is so submitted shall be of opinion that such subordinate Court has jurisdiction in the case, such superior Court shall direct such subordinate Court to proceed with the case; and if such superior Court shall be of opinion that such subordinate Court has not jurisdiction in the case, such superior Court shall proceed in the manner directed in the last preceding section.

Transfer of suit entered in Court not having jurisdiction.

4. Whenever a Court of Adálat or a Revenue-Court shall have entered on its file, under this Act, a suit in which it has not jurisdiction, it shall be competent to the Sadr Díwání Adálat, either on a reference from the Judge or Collector (as the case may be), or on application from the parties, to direct that the suit be transferred, with all the proceedings which may have taken place therein up to the period of transfer, to the Court possessing jurisdiction, which shall proceed therewith as if the suit had been originally filed in that Court.

Procedure on Court of appeal finding original suit

5. When any Court trying an appeal finds that the action was originally brought and decided in a Revenue-Court, when it ought to have been brought and decided in a Court of Adálat, or a Court subordinate thereto, or that the

[a] Declared to apply to the whole of the Bombay Presidency except the Scheduled Districts Act No. XV of 1874.

action was originally brought and decided in a Court of Adálat, or a Court subordinate thereto, when it ought to have been brought and decided in a Revenue-Court, the Court trying the appeal shall, instead of quashing the whole proceedings, annul only the decree and refer the suit to be tried in the Court to which the jurisdiction properly belongs, and the Court trying any such case referred under the foregoing section shall take further pleadings, exhibits and evidence only if it deem such necessary, and shall pass a new decree. Suit was decided in wrong Court.

ACT No. XIX of 1838.[a]

Passed on the 27th of August, 1838.

1.—[*Repealed by Act No. XIV of 1870.*]

2. The following rules shall be in force with respect to vessels belonging to any of Her Majesty's subjects residing within the Presidency of Bombay, and employed on the coasts of the territories subject to the Government of Bombay, or in trading coastwise, as also with respect to fishing-vessels and harbour-craft belonging to any of the same Her Majesty's subjects. Rules as to coasting and other vessels belonging to Queen's subjects.

3. Every such vessel employed as aforesaid, fishing-vessel and harbour-craft shall be marked or branded with the name of the place to which she belongs, and also with a number assigned for the same by the officer authorized to make such registry as is hereinafter mentioned; Marking or branding vessels with name of place and number.

and the owner or owners of such vessel employed as aforesaid, fishing-vessel and harbour-craft, shall cause such name and number to be painted in black paint upon a white ground on each quarter of such vessel employed as aforesaid, fishing-vessel and harbour-craft, in English figures and letters, each figure and letter being six inches in length. Owner to paint name and number.

4. The name and number of every such vessel employed as aforesaid, fishing-vessel and harbour-craft, and her burthen, and also the name or names of the owner or owners thereof, shall be registered in a book to be kept for that purpose by the person hereinafter directed to make such registry. Registry of name, number and burthen.

At Bombay, such registry shall be made by the Master-Attendant, and at other places within the said territories by the Collector of Sea-customs at such places respectively, or by such other person as shall be appointed by the Government of Bombay to act at such places respectively, in the execution of this Act; and whenever any change shall take place in the burthen of such vessel employed as aforesaid, fishing-vessel or harbour-craft, or in the name or names of the owner or owners thereof, such registry shall be made again: Registry by whom to be made. Fresh registration.

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[a] Declared to apply to the whole of the Bombay Presidency except the Scheduled Districts, Act No. XV of 1874. See Act No. X of 1841.

provided, however, that it shall not be lawful to give any name to such vessel employed, as aforesaid, fishing-vessel or harbour-craft, other than that by which she was first registered.

Owners to apply for registry.

5. The owner or owners of every such vessel employed as aforesaid, fishing-vessel and harbour-craft shall apply to the person authorized to make such registry in respect of the same, in order to have such registry as aforesaid made, or in order to have such registry made again as aforesaid.

Information of registry at subordinate port.

And whenever such vessel employed as aforesaid, fishing-vessel or harbour-craft is registered at a subordinate port, information thereof, and of the number there assigned to her, shall immediately be given by the registering officer to the Master-Attendant at Bombay.

Officers to perform duty of marking and branding.

6. The duty of marking or branding and of ascertaining the burthen of such vessels employed as aforesaid, fishing-vessels and harbour-craft, at Bombay, shall be performed by the Master-Attendant; and at all other places within the territories subject to the Government of Bombay, the duty of marking or branding and of ascertaining the burthen of such vessels employed as aforesaid, fishing-vessels and harbour-craft shall be performed by the Collector of Sea-customs at such places respectively, or by such other persons as shall be appointed by the Government of Bombay to act at such places respectively, in the execution of this Act.

Owner to obtain certificate of registry

7. The owner or owners of every such vessel employed as aforesaid, fishing-vessel and harbour-craft shall apply for and obtain a certificate of registry from the person authorized to make such registry as aforesaid, and such certificate shall be in the form specified in the schedule appended to this Act; and

Replacing lost certificate.

in the case of any certificate being lost or destroyed, a renewed certificate may be obtained in the same manner and on payment of the fees hereinafter mentioned.

Sealing certificate.

8. Such certificate of registry shall be sealed with the seal of the East India Company, and shall be signed by the person authorized to make such registry.

9.—[*Repealed by Act No XII of 1876.*]

Fees for certificates.

10. The owner or owners of such vessels employed as aforesaid (fishing-vessels and harbour-craft being excepted), on being registered as aforesaid, shall pay—

for each certificate of registry for a vessel not exceeding 20 Bombay khandís burthen, the fee of	1 rupee.
for each certificate for a vessel exceeding 20 such khandís burthen, and not exceeding 100 khandís burthen ...	5 rupees.
for each certificate for a vessel exceeding 100 such khandís burthen, and not exceeding 400 khands burthen	7 „
and for each certificate for a vessel of 100 tons or greater burthen, per ton	2 annas.

Fees to be credited to Government.

11. The person or persons so authorized to make such registry as aforesaid shall receive the fees payable for the same, and shall pay such fees to such officer as the Governor of Bombay in Council shall appoint; the same to be carried to the credit of the Government of Bombay.

Production of certificate on demand.

12. The owner or owners or commander of every such vessel employed as aforesaid, fishing-vessel and harbour-craft shall produce, on demand thereof by any officer of the customs within the said territories, or by any officer of the Navy, the certificate so directed to be applied for and obtained, in respect of such vessel employed as aforesaid, fishing-vessel or harbour-craft, as above-mentioned.

Penalty for neglect to comply with rules.

13. In case any such vessel employed as aforesaid, fishing-vessel or harbour-craft shall not be so marked or branded in all respects as hereinbefore directed, or in case the name and number of any such vessel employed as aforesaid, fishing-vessel or harbour-craft shall not be so painted, or shall not continue so painted on such vessel employed as aforesaid, fishing-vessel or harbour-craft, in all respects as hereinbefore directed; or in case any such vessel employed as aforesaid, fishing-vessel or harbour-craft shall not be furnished with such certificate as hereinbefore specified, or in case the owner or owners or commander of any such vessel employed as aforesaid, fishing-vessel or harbour-craft shall not produce such certificate on demand thereof as hereinbefore directed, the owner or owners of every such vessel employed as aforesaid shall be subject to a fine of ten times the amount of the fees payable in respect of the certificate of registry of such vessel, the same being a vessel for the certificate of the registration of which any fee is payable; and the owner or owners of any such fishing-vessel or harbour-craft shall be subject to a fine of ten rupees; which fines may be recovered on conviction before any Magistrate having jurisdiction within the said territories, by sale of such vessel, fishing-vessel or harbour-craft, her furniture, ammunition, tackle and apparel; and such fines shall be payable as often as the owner or owners or commander of any such vessel employed as aforesaid, fishing-vessel or harbour-craft shall make such default as aforesaid, provided every such subsequent default be made after the expiration of one month from the date of the last conviction.

Recovery of penalties.

Penalty on repetition of default.

Power to direct compensation for trouble in seizing.

14. The Governor of Bombay in Council may direct compensation for trouble and diligence in seizing such vessel employed as aforesaid, fishing-vessel or harbour-craft, guns, furniture, tackle, ammunition and apparel, as last-mentioned, to be made out of the proceeds of such seizure, to the person or persons who shall have seized the same, to such amount, in such manner, and in such shares or proportions, as to the said Governor in Council shall seem meet.

SCHEDULE.

This is to certify that (*here insert the names, occupation and residence of the owners*) having declared, that (he *or* they) are sole owner or owners of the vessel (fishing-vessel *or* harbour-craft) called (*the name*), which is of the burthen of (*number of Bombay khandís*) and that the said vessel (fishing-vessel *or* harbour-craft) was (*where and when built*), the said vessel (fishing-vessel *or* harbour-craft) has been duly registered at the port of (*name of port*).
Certified under my hand.

(*Signature of officer.*)

ACT No. XX OF 1839.[a]

Passed on the 29th of July, 1839.

Power to prohibit levy of haqqs, fees and customs

1. IT shall be lawful for the Governor in Council of Bombay to issue orders prohibiting the levy of haqqs and fees of every description, and customs, whether by land or sea, enjoyed by holders of rent-free lands or other persons, and of alienated shares of any item of revenue after the abolition or relinquishment thereof by Government.

Past and future prohibitions not to be questioned by any Court.

2. The legality of any orders which may have been heretofore issued, or of any orders which, conformably with this Act, hereafter shall be issued by the Governor in Council of Bombay, for prohibiting the levy of any such haqqs, or fees, customs or alienated shares of any such item of revenue as aforesaid, shall not be questioned in any Court of law.

Penalty for levy after prohibition.

3. Whoever shall levy any such haqq, fee, customs or item of revenue after any such order prohibiting the same as aforesaid shall have been published in the Government Gazette of the Presidency of Bombay, and by notice fixed at the post or place at which it has heretofore been claimed or collected, shall be punishable as for an undue exaction under Regulation XVII of 1827,[b] section 16, of the Bombay Code, notwithstanding the offender be not a Revenue-officer of Government.

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[a] Declared to apply to the whole of the Bombay Presidency except the Scheduled Districts, Act No. XV of 1874. Orders issued under Act No. XX of 1839, see *Bombay Government Gazette*, 12th September, 1872, p 1015: *ibid.*, 13th February, 1873, p 130.

[b] Repealed by Bombay Act No. V of 1879.

ACT No. XV of 1840.

Passed on the 29th of June, 1840.

An Act for extending Regulations *XV of 1827* and XIII of 1830 of the Bombay Code, to the Agents of foreign Sovereigns.[a]

Extension of Regulations to Agents of foreign Sovereigns and others.

It is hereby enacted, that the provisions of Regulations *XV of 1827*[b] and XIII of 1830[c] of the Bombay Code, be made applicable to the Agents of foreign Sovereigns having lands and possessions in the British territory of the Bombay Presidency, and to guardians and such other individuals as the Governor in Council of Bombay may consider it expedient to invest with the powers contained in the aforesaid Regulations; provided that in all cases the authority conferred shall be revocable at the direction of the Governor in Council of Bombay.

ACT No. XIX of 1844.

Passed on the 14th of September, 1844.

An Act for abolishing town-duties and mukáts, and all taxes upon trades and professions within the Presidency of Bombay.[d]

Abolition of town-duties and taxes.

It is hereby enacted, that from the first day of October, 1844, all town-duties, kasab veros, muhtarafas, baluteh taxes and cesses of every kind on trades or professions, under whatsoever name levied within the Presidency of Bombay, and not forming a part of the land-revenue, shall be abolished.

ACT No. XI of 1846.

Passed on the 12th of December, 1846.

An Act for the exemption of certain territory in the Province of Khándesh from the operation of the general Regulations.[e]

Preamble.

Whereas it has been deemed expedient to exempt from the jurisdiction of the civil and criminal Courts of the Bombay Presidency certain portions of

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[a] Declared to apply to the whole of the Bombay Presidency except the Scheduled Districts, Act No. XV of 1874. Repealed, so far as it relates to Bombay Regulation XV of 1827, by Act No. XVI of 1874.

[b] Repealed by Act No. XVII of 1862.

[c] See *supra*, p. 43.

[d] Declared to apply to the whole of the Bombay Presidency, except the Scheduled Districts, Act No. XV of 1874.

[e] Repealed (except as to the Scheduled Districts, Bombay), by Act No. XIV of 1874.

the parganas of Nandurbár, Sultánpur and Kukarmunda in the Province of Khándesh:

Repeal, in part, of Bombay Regulation XXIX of 1827, appendix A.

1. It is hereby enacted, that from and after the first day of February, 1847, so much of appendix (A) of Regulation XXIX of 1827[a] of the Bombay Code as declares the villages contained in the schedule annexed to this Act, and the lands attached thereto (being parts of the parganas of Nandurbár, Sultánpur and Kukarmunda, in the Province of Khándesh), subject to the Regulations established for the administration of civil and criminal justice in the Bombay Presidency, be repealed.

Administration of justice and superintendence of Police and revenues vested in Agent.

2. From and after the said day the administration of civil and criminal justice, the superintendence of the Police and the collection and superintendence of the revenues of every description within the said portions of territory shall vest in such Agent to the Governor of Bombay as shall be appointed by the Governor of Bombay in Council, and shall be exercised by the said Agent with the aid of such assistants as may be appointed by the said Governor in Council.

Power to prescribe rules for Agent and subordinates.

3. It shall be competent to the said Governor in Council, by an Order in Council, to prescribe such rules as he may deem proper for the guidance of the Agent aforesaid and of all the officers subordinate to his control and authority, and to determine to what extent the decision of the Agent in civil suits shall be final, and in what suits an appeal shall lie to the Sadr Díwání Adálat, and to define the authority to be exercised by the Agent in criminal trials and what cases he shall submit to the decision of the Sadr Faujdári Adálat.

Procedure of Sadr Faujdári Adálat in criminal trials referred by Agent.

4. Upon the receipt of any criminal trials referred by the Agent under the rules which may be hereafter prescribed by the Governor in Council, the Sadr Faujdári Adálat shall proceed to pass a final judgment, or such other order as may, after mature consideration, seem to the Court requisite and proper, in the same manner as if the trial had been sent up in ordinary course from a Session Judge.

And of Sadr Díwání Adálat in appeals.

5. Upon the receipt of any appeal from a decree of the Agent duly prepared under the Rules to be prescribed as aforesaid, the Court of Sadr Díwání Adálat shall proceed to try and determine it in the same manner as appeals from the zila Courts.

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[a] See *supra*, p. 28.

SCHEDULE.

List of villages belonging to the Seven Mevás Chieftains in the Province of Khándesh comprehended in the parganás of Nandurbár, Sultánpur and Kukarmunda.

Names of Chiefs.	Inhabited.	Uninhabited.
1 Ganpat Sing Valad Chandrasing, Rána of Budhával.	Dekáti.	Navágaom.
	Halálpur.	Somával Khurd.
	Budhávali.	Bho Bhát.
	Khushgawhán.	Pratáppur.
	Ashté.	Navalpur.
	Khár.	Rájvira.
	Mendvad.	Kalambi Vihír.
	Jámligura.	Ghoghát.
	Válheri.	Rámgad.
	Budhával.	Pethápur.
	Lobábhán.	
	Somával Buzurg.	
	Mathával.	
	Shervi.	
	Ekdhor.	
	Relápára.	
2 Umed Valad Lakshman Párvi of Káti.	Káti.	Khatkuva.
	Bhagdori.	Báhmangaon.
	Vanva.	Gallotta Khurd.
	Jámna.	Akal Kuva.
	Bír.	Horápára.
	Sámar.	Ankushi Vihír.
	Kajál.	Gawháni.
	Velkhuri.	Pevta.
	Mogribár.	Mojra.
	Gorápibár.	Dhánkbári.
	Nalvanbára.	Kotli.
	Jágti.	Mahán.
	Aruti.	Dhobripita.
	Kivari.	Taláv.
	Chápri.	Chikhli.
	Pándhriméti.	Ghora Devi.
	Pimparkhuta.	Kuva.
	Surgas.	Kolvi.
	Bijalgawhán.	Kolvichmál.
	Bálaghát.	Nendvan.
	Vehagi.	Pátpára.
	Chanvái.	Kalmanda.
	Bálkra.	Varphalli.
	Gojíbára.	Bhatári.
	Oghání.	Pok Khára.

Names of Chiefs.	Inhabited.	Uninhabited.
Umed Valad Lakshman Párvi of Káti.—(*continued*).	Danái. Surpánvávi. Sari. Kankál. Koili Vihír. Sonáchi párdi. Kákarpára. Ghatváni. Rájmohi. Khatás Khári. Khái. Hiráni. Dáb. Dahel. Murira. Vádi. Kadváli. Gadváni. Bokhári. Polgawhán. Umti. Veri. Pimparpán. Máichámál. Mogri. Bahmani. Somkhári. Rás. Ghattala. Mogra. Mulgi. Bharkund. Veli. Umrigawhán. Jámli. Bhágrápán. Umla. Rául K. Sendri. Kukripádar. Kajáni. Homákhámb. Gallota Buzurg. Navágaon. Gangápur. Kevára Mohi.	

Names of Chiefs.	Inhabited	Uninhabited.
3 Umed Valad Pá-cha Párvi of Nál.	Gulyámba.	Nál. Virpur. Navágaon. Sáne Vihír. Jiri Sávar. Tanak Moli.
4 Bikna Valad Ráila Párvi of Singpur	Singpur Buzurg. Singpur Khurd	Bábhalpur.
5 Khátia Valad Nána Valvi Bhil of Gawháli.	Gawháli. Bár. Pihrido. Kákriámba. Hátvaryávar. Morki. Nágar Moti. Rájkura. Ráisingpura. Udan. Bherivoa.	Pándhripára. Dodav. Lálpur. Koákher. Karkhund. Bakhtár. Pála. Bhuyaváv. Kákarkhor. Rájni. Khurd Mahukhári. Kuvarváv. Tálámba. Varkund. Kumri. Khargia Morámba. Borigawhán. Bhometi. Kálámba. Phulvádi. Kelvan. Bhoi Karaj. Dorki. Jámva.

Names of Chiefs.	Inhabited	Uninhabited
Khátia Valad Nána Valvi Bhil of Gawháli —(*continued*)		Gotpára. Jujav Ukalsár. Rájnibára Ambábár Borki Dokhi Mátha Kund Gagriamba Lálbhardi. Junátána Morámba. Kádli. Gondvan. Ghoda Mándára Khurd Mándára Buzurg Bhogvad. Guji Mahukhári Buzurg Vájpur. Tálámba. Jámna Shindgawhán Kániámba. Mograpána Kalevarkhuid. Rámpura. Kunda. Junvan. Bugniámba. Shingvan. Kániámba Kondvápára. Kánápára. Kotára. Párdi Kevribár. Bhuera. Gawhán. Koradevi. Jámkhut. Amligowhán. Máthámba. Matha Mogar. Máta Tána. Udapur

	Names of Chiefs	Inhabited	Uninhabited
6	Kuvar Vasáva Valad Jiva Vasáva Bhil of Chikhli	Chikhli Jhiribera Pátipára Chátupára Ránepuia. Khápar Gangtha Lagri Jávli Koliváda Palásvada Umán	Jhápa Ámli Khánora Koktipára Khayerpára Chánpur Umráni. Vadgaon Choti Raráli Bráhmangaom Kavligawhán Bholvad Dhabia Mondi Kenvada Khekvad Dábriámba. Augat Rethi Cháptipára Rájnivád Umáni Navágaon Naken Sevri Nevri Umjia
7	Rája Valad Vesha Párvi		Soldán Navalpura

ABSTRACT

	Names of Chieftains	Inhabited	Uninhabited	Total Villages
1	Ganpat Sing, Valad Chandra Sing Rána of Budhával	16	10	26
2	Umed Valad Lakshman Párvi, of Káti	71	25	96
3	Umed Valad Pácha Parvi of Nál ...	1	6	7
4	Bikna Valad Ráila Párvi of Singpui ..	2	1	3
5	Khátia Valad Nana Valvi Bhil of Gawháli	11	70	81
6	Kuvar Vasáva Valad Jiva Vasáva Bhil of Chikhli	12	25	37
7	Raja Valad Vesha Párvi		2	2
	Total	113	139	252

ACT No. XI of 1852.

Passed on the 13th of February, 1852.

An Act for the Adjudication of Titles to certain Estates claimed to be wholly or partially Rent-free in the Presidency of Bombay.

Preamble

WHEREAS in the territories of the Dekkhan, Khándesh and Southern Mahratta country, and in other districts more recently annexed to the Bombay Presidency, claims against Government on account of ináms and other estates wholly or partially exempt from payment of land-revenue are excepted from the cognizance of the ordinary civil Courts, and incapable of being justly disposed of under the rules for the determination of titles and the rules of procedure contained in chapters IX and X of Regulation XVII of 1827[a] of the Bombay Code and their supplements; and where as it is desirable that the said claims should be tried and determined without further delay; it is declared and enacted as follows:

Rules not applicable to certain districts.

1. The rules in chapters IX and X of Regulation XVII of 1827, and in clause 1 of Regulation VI of 1833,[b] of the Bombay Code, do not apply to any of the districts of the Bombay Presidency which were not brought under the General Regulations of Government by Regulation XXVIII of 1827[c] of the Bombay Code.

Power to appoint Inám Commissioner, with assistants and establishment.

2. The Governor of Bombay in Council may appoint in any zila or other division of the territories subject to the Presidency of Bombay, which were not brought under the General Regulations of Government by the said Regulation XXVIII of 1827, an Inám Commissioner with so many assistants, and such subordinate establishment, as may be necessary for the purposes hereinafter mentioned.

Duties how discharged.

3. The duties of each Inám Commissioner and his assistants shall be discharged according to the rules in schedule A annexed to this Act.

Determination of titles of claimants to exemption.

4. In the adjudication of claims to exempt lands or interests therein, the titles of claimants shall be determined by the rules in schedule B annexed to this Act.

Powers to enforce attendance of witnesses to take evidence, &c.

5. Each Inám Commissioner and his assistants shall have the same authority to procure the attendance of witnesses, and to take evidence, as now is, or from time to time may be, by law vested in the ordinary civil Courts; and so far as concerns the penalties for not giving evidence, for false testimony, for resistance of process, contempts and other like matters connected with

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[a] Repealed by Bombay Act No V of 1879.
[b] Repealed by Bombay Act No VII of 1863
[c] Repealed by Act No. XII of 1873

cases under cognizance by any one of the said officers, his office shall be held to be a Court of civil jurisdiction of the same authority as the superior civil Court of the zila or district in which his office from time to time shall be established.

Provided that all complaints against, or appeals from, the proceedings of the Inám Commissioner or any of his assistants, in exercise of the authority conferred on them respectively by this section, shall be made under the second rule of schedule A annexed to this Act; and shall not be cognizable by any other authority or in any other manner than as therein specified. Complaints against, or appeals from, proceedings of Commissioner and assistants.

6. Bribery, extortion, and generally all acts of abuse or misapplication of authority, or other misconduct, committed by any officer belonging to the establishment of the Inám Commission, or temporarily employed therein under the provisions of this enactment, shall be punishable as criminal offences with fine and ordinary imprisonment without labour for a period not exceeding five years, and the receipt of a present, directly or indirectly, by any such officer from any person against whom or in whose behalf he may be officially employed, shall be considered extortion. Punishment of misconduct of officers on Commission. Extortion defined.

And no penalty or punishment adjudicated under this clause shall preclude any other civil prosecution to which the offender may be liable. Other prosecution not barred.

SCHEDULE A.

Rules for defining the Duties of each Inám Commissioner and his Assistants.

1. The duty of the Inám Commissioner and his assistants shall be to investigate, in the manner prescribed by this enactment, the titles of persons holding or claiming against Government the possession or enjoyment of ináms or jághírs, or any interest therein, or claiming exemption from the payment of land-revenue, and generally to act according to the instructions of Government in all matters not specifically provided for in this enactment. Duty defined.

2. All orders of the Assistant Commissioners shall be appealable to the Inám Commissioner, who shall also have the authority of revising and of modifying, reversing or annulling, if necessary, their orders and proceedings, and the orders and proceedings of the Inám Commissioner shall be in like manner appealable to, and subject to modification, reversal or annulment by the Governor of Bombay in Council, whose orders shall in every case be final. Appeal from orders of Assistant Commissioners, and Commissioner.

3. The Inám Commissioner or his assistants shall receive from the persons holding or claiming to hold lands or any interest therein exempt from the payment of revenue, statements explaining the nature of the title by which Duty to receive statements of title,

and record evidence in support.

the lands or interests are so held, and shall take and record the evidence offered in support of such statements.

Statements how received.

4. These statements may be received, either directly by the officers of the Inám Commission, or through the medium of the revenue-authority of the taluqa in which the land or interest so held or claimed as exempt is situated, or in which the alleged proprietor resides, without any previous procedure, except a general invitation to such landholders of a district who shall hold or claim to hold lands exempt as aforesaid to state the nature of their titles.

Notice when to issue.

5. But when such general invitation is not sufficiently attended to, a notice may be issued to any party holding or claiming to hold any lands or any interest therein wholly or partially exempt as aforesaid, requiring him personally, or by his agent, to shew his title.

Contents of notice.

The notice issued in such cases shall state the nature of the investigation which is intended, and shall call upon the alleged proprietor of the exempt lands or interest held or claimed to be held exempt as aforesaid, to attend either personally or by an authorized agent, at a specified place, and within a specified period (which shall never be less than two months from the date of the notice being served), to explain the nature of his title to hold such lands or interest exempt as aforesaid, and to produce all the evidence forthcoming to prove it.

The notice shall further explain that a failure to comply with its terms will render the land, or interest to which it relates, liable to attachment.

Service of notice.

6. The notice shall be served upon the party holding or claiming to hold the land or interest exempt as aforesaid, or, if his place of residence be not known, upon the person acting for him, or in default of such, upon the person in charge of the land or interest.

Posting notice when landholder not found.

7. If such persons cannot be found, a notice shall be posted in the office of the Native revenue-officer of the district, and in the chauŕi, or most public place of the village, where the land or interest under inquiry is situated, calling on any person who may claim as proprietor to appear, either personally or by his agent, to prove his title within six months from the date of the notice, under penalty of the attachment of the land or interest, and on failure of the appearance of a claimant, the land or interest shall be liable to attachment.

Attachment by whom enforced.

8. The attachment provided for by rules 5 and 7 shall be enforced by the Collector or chief revenue authority of the district in which the land to which it relates is situated, at the written requisition of the Inám Commissioner or his assistant, which shall be a sufficient warrant to the Collector for the attachment of the land, and for the collection of the rents accruing therefrom on account of Government during its attachment.

Procedure on receipt of statements and evidence of title.

9. As soon as possible after the receipt of the statements in each district, and of the evidence by which they are supported, they shall be tested by the entries in the Government-accounts and State-records, and by any other evidence procurable, whether in favour of Government or of the claimants, and decisions shall then be passed on them as to the continuance, resumption or full or partial assessment of the lands.

Procedure on failure of notice to procure attendance.

10. In cases where the notices provided for in sections 5 and 7 fail to procure the attendance of the persons to whom they are addressed, and no claimant appears to prosecute his claim, the Commissioner or Assistant Commissioner shall proceed to ascertain the facts of the case from such evidence as may be forthcoming or procurable, and shall pronounce such decision thereupon as to him shall seem just regarding the lands or interests to which the notices referred.

Removal of attachment.

11. An attachment enforced under rule 8 shall be removed by the Collector or chief revenue authority by whom it was made, on receipt of a communication from the Inám Commissioner or his assistant, certifying that he considers the attachment to be no longer necessary; but the rents collected from the land during its attachment shall in no case be restored to the alleged proprietor, except under the general or special instructions of Government.

Restoration to proprietor of rents collected.

Copies of decisions to be delivered to claimants.

12. Certified copies of decisions, made according to the provisions of rule 9, shall be delivered as soon as possible after each decision is passed, to the persons on whose claims the decision shall have been pronounced, or their agents; and copies of all decisions made in the absence of any claimant, according to the provisions of rule 10, shall be sent to the mámlatdár, or other revenue-manager of the taluq in which the lands to which they relate are situated, who shall deliver them to the parties affected by them, should they be discoverable, or otherwise cause them to be publicly posted in the village to which the lands in question belong.

Copies of decisions made in their absence who to be dealt with.

Execution of decisions.

13. Decisions affecting any lands or any interests therein passed under this enactment shall be carried into execution by the Collector or chief revenue authority of the district in which the lands to which they relate are situated, at the requisition of the Inám Commissioner or his assistant, in any manner which may, from time to time, be prescribed by the Governor of Bombay in Council.

Procedure in appeal.

14. In all cases where a person may be desirous of appealing against any decision of the Inám Commissioner or his assistants, he shall apply by a petition, addressed to the authority by whom, according to rule 2, his appeal is cognizable, which petition shall be presented to such authority within one hundred days from the date of the decree appealed against, a copy of which must accompany the petition of appeal, and no appeal which is not so

made shall be admitted, without proof of the existence of a just and necessary cause for its not having been preferred in due time; and it is hereby provided, that no decree passed by the Inám Commissioner or any of his assistants shall be liable to be set aside for want of form in the proceedings, but only for matters affecting the justice of the decision.

Setting aside decrees.

SCHEDULE B.

Rules for the Adjudication of Titles to Estates claimed as Inám or exempt from Payment of Land-revenue.

Continuance of Ináms already declared permanent.

1. All lands held under a specific and absolute declaration by the British Government, or any competent officer acting under it, that they were to be continued hereditarily or in perpetuity exempt, wholly or partially, from the payment of revenue, are to be so continued according to the purport of such declaration.

Disposal of question as to competency to make declaration.

Provision 1st.—If any question shall arise as to the competency of the officer to make or give such declaration as aforesaid, the Commissioner or Assistant Commissioner is to suspend his judgment, and report the circumstances of the case to the Governor of Bombay in Council, to whom a power is hereby reserved of determining finally whether such officer was competent to make or give such declaration, and the Commissioner or Assistant Commissioner, upon receiving the determination of the said Governor in Council, shall decide accordingly.

Continuance of holding under sanad declaring it hereditary, where granted by competent authority,

2. Any land held under a sanad declaring it to be hereditary, shall be so continued according to the terms of the sanad.

Provision 1st.—Provided that the grant was either made, or specifically recognized, by authority competent to alienate Government-revenue in perpetuity, the question of which recognition and competency is to be referred to and determined by Government in the manner prescribed by provision 1st, rule 1.

and conditions of tenure legally observable;

Provision 2nd.—And provided that there be nothing in the conditions of the tenure which cannot be observed without a breach of the laws of the land, or the rules of public decency.

and grant not revoked, disallowed or altered.

Provision 3rd.—And provided that the grant was not afterwards revoked or disallowed, or an alteration of its terms ordered or recognized by a competent authority.

Continuance of holdings exempt or partially

3. All lands uninterruptedly held as wholly or partially exempt from assessment for a period of sixty years before the introduction of the British Government, and then in the authorized possession of a grandson in male descent,

or male heir of the body of such grandson, of the original grantee, shall continue to be so held so long as there shall be in existence any male heir of the body of the person who was incumbent at the introduction of the British Government, tracing his lineage from such incumbent through male heirs only. exempt for 60 years before British rule.

4. All lands uninterruptedly held as wholly or partially exempt from assessment for a period of forty years before the introduction of the British Government, and then in the authorized possession of a son, or male heir of the body of a son, of the original grantee, are to be continued for one succession further than that of the person who was incumbent at the introduction of the British Government, that is, until the death of his last surviving son. Continuance of holdings so exempt for 40 years.

Provision 1st.—The authorized possession contemplated by rules 3 and 4 does not involve the necessity of proving any specific authority from, or recognition by, the Government or paramount Power. The mere entry of the holding, as continued in the genuine accounts of the district-officers (even in those not audited and passed by the Government of the time being), will be sufficient to bring it under the heads of "uninterrupted" and "authorized" so far as regards the purposes of this rule; provided only that there are no entries in the Collectorate-accounts which shew that the holding of such lands exempt as aforesaid must have been unauthorized by the Government or paramount Power. Authorized possession how proved.

Provision 2nd.—If there be not evidence forthcoming to disprove a claimant's assertion that his holding has been undisputedly enjoyed for the number of years and descents requisite to fulfil the conditions of rules 3 and 4 respectively, his prescriptive right shall be admitted. Prescriptive right of claimant when admissible.

Provision 3rd.—The introduction of the British Government is to be reckoned from the time the East India Company became the Government or paramount authority over each district as regards its ináms. In the territories ceded by or conquered from the Peshwa, therefore whether khalsat mahál or saranjáms, &c., held exclusive of ináms, &c., the introduction of the British Government will date from the close of that of the Peshwa. Introduction of British Government when to date— in territories late of Peshwa,

But in case of the lapse of an independent principality, or of a jágír more ancient than the Peshwa's government, and over the ináms of which he did not claim any authority, the introduction of the British Government should be reckoned only from the date at which the general management of the districts may have come into the hands of the Company, in independent principality or jágír more ancient than Peshwa's government.

and in case any question shall arise as to the precise date when the East India Company became the Government over any district, or when the general management of any district came into their hands, such question shall be referred to and determined by Government in the manner prescribed by provision 1st, rule 1. Disposal of question as to date of East India Company acquiring Government.

Lands resumable on demise of incumbent

6.[a] Land held as wholly exempt from payment of revenue, or on partial assessment, the possession of which is not continuable under the preceding rules, is to be resumed on the demise of the incumbent.

Extension of life-tenure of holding of which incumbent died before British rule

Provision 1st.—In case the incumbent at the time of the introduction of the British Government may have died, the permission to hold for life is to be extended to the person in whose name the land may be continued, when the investigation is commenced, if there be no fraud apparent, nor other reason for withholding this indulgence.

Resumption of land held by fraud

Provision 2nd.—When land is evidently held by fraud recently committed, (as when an inám which was resumed under the late Government has been re-occupied under the present Government without authority, or as when a pretended inám is found to have originated since the introduction of this Government with the connivance of district or village-officers), it shall be at once resumed, not being continuable under this or any of the preceding rules.

Continuance of holdings for support of mosques, temples, &c.

7. All lands held for the support of mosques, temples, or similar institutions, of the permanent character of which there can be no doubt, are to be continued permanently, even though their permanent continuance may not have been expressly provided for when they were granted.

Corresponding provisions of rule 2 applied

Provisions 1st, 2nd and 3rd.—The same as the corresponding provisions of rule 2 of this schedule in those cases in which title-deeds or other records proving the circumstances of the original grant, or its specific recognition by competent authority, are forthcoming.

Effect of enjoyment for 40 years where no proof of grant forthcoming.

Provision 4th.—When there is no proof forthcoming to shew whether or not an inám, coming under the provisions of this rule, was granted, or even specifically recognized, by a competent authority, still, if it has been undisputedly enjoyed for a period of forty years before the introduction of the present Government, it shall be permanently continued, and enjoyment proved by the mere entry of the inám, as continued in genuine accounts of the district-officers (even in those not passed by the Government of the time being), is to be considered sufficiently "uninterrupted" to give an inám the benefit of this provision, if there be no entries in the Government-accounts which shew that it must have been unauthorized by them.

Prescriptive title when admissible where records do not go back enough to test enjoyment for 40 years.

Provision 5th.—If the forthcoming records do not go far enough back to test the existence of enjoyment of the duration contemplated in provision 4th as establishing full prescriptive title in such ináms, still, if so far as they do go, they are not opposed to the claimant's assertion that sufficient enjoyment has taken place, the prescriptive title of the inám shall be admitted according to his assertions, unless there be other evidence forthcoming to disprove them.

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[a] There is no Rule numbered 5

Provision 6th.—The peculiar advantages of this rule shall not apply to the holdings of individuals in their own names for the performance of ceremonial worship, claims to which must be decided under the rules for personal claims. Rule where not applicable.

Provision 7th.—When claims of the denomination coming under this rule are found to be unsupported by proof of original valid title, and are proved void of sufficient prescriptive enjoyment, they are to be adjudicated according to rule 6. Adjudication of certain claims coming under rule.

8. All lands authorizedly held by an official tenure which it is evident from local usage was meant to be hereditary, and has been so considered heretofore, even though there be no sanads declaring it to be so,—for instance, ináms which form the authorized emoluments of any hereditary office, as of kázís, village joshís, &c., and are not merely personal,—are to be continued permanently. Continuance of holdings by official tenure meant to be hereditary.

Provisions 1st, 2nd and 3rd.—The same as the corresponding provisions of rule 2 of this schedule in those cases in which title-deeds or other records, proving the circumstances of the original grant, or its specific recognition by competent authority, are forthcoming. Corresponding provision of rule 2 applied.

Provision 4th.—When there is no proof forthcoming to shew whether or not an inám, coming under the provisions of this rule, was granted or even specifically recognized by competent authority, still, if it has been undisputedly enjoyed as an official, and not merely personal, holding from the earliest period to which the forthcoming evidence does relate, it shall be continued permanently as official emolument, unless the claimant's own statement renders this course improper. Continuance of inám enjoyed as official holding during period covered by evidence, though grant or recognition not proved.

Provision 5th.—The provisions of this rule are not in any way to apply to emoluments continued for service performed to the State, as the service watans of desáís, sardesáís, nádgaudas, deshpándes, patels, kulkarnís, mhárs, talavárs, whose claims are to be disposed of according to the rules which are or may be established for the regulation of such holdings. Exemption from rule of emoluments for certain services to State.

Provision 6th.—It is to be understood that mere length of enjoyment of land as inám by an official person is not of itself sufficient to entitle a claim to be brought under this rule. Length of enjoyment by itself does not entitle to benefit of rule.

Provision 7th.—If a holding claimed under this rule be found incapable of permanent continuance under it, the claimant shall be allowed the advantages of any of the preceding rules of this schedule which may be applicable to his case. Benefit of preceding rules when allowable.

9. On the resumption of any lands under the rules of this schedule, a moiety or other portion may be continued to the widows of the last incumbents during their lives, in cases of proved poverty and destitution. Provision for widows of last incumbents of resumed holdings.

Provision 1st.—In the case of a holding which is recognizable as an hereditary personal inám, the widow of a proprietor who dies without surviving Continuance to widow and sole heir of

holder of hereditary personal inám.

male issue, or other heirs to whom his inám will of necessity descend, is by right his sole heir, and during her life, the inám cannot be regarded as having lapsed to Government: it should, therefore, in such a case, be continued undiminished during the widow's life.

Exception of certain tenures from application of rules.

10. These rules shall not be necessarily applicable to jágírs, saranjáms or other tenures for service to Government, or tenures of a political nature, the titles and continuance of which shall be determined as heretofore under such rules as Government may find it necessary to issue from time to time.

Modification in favour of claimants and interpretation of rules.

11. Any of these rules may be relaxed in favour of claimants under instructions from the Governor of Bombay in Council, in whom shall also be vested the power of interpreting the precise meaning of any of the rules respecting which a question may arise.

ACT No. XI of 1853.

Passed on the 15th of July, 1853.

An Act to facilitate the removal of nuisances and encroachments below high-water mark in the Islands of Bombay and Kolába.[a]

Preamble.

WHEREAS there is a large sea-shore in the Islands of Bombay and Kolába, and it is expedient, with a view to the safe navigation of the harbour of Bombay, and to the public interests generally, to facilitate the removal of nuisances, obstructions and encroachments below high-water mark in the said harbour, or upon or about the shores of the said islands; It is enacted as follows:

Power to give notice to remove nuisance.

1. It shall be lawful for the Collector of land-revenue at Bombay to give notice requiring the removal of any nuisance, obstruction or encroachment anywhere below high-water mark in the said harbour of Bombay, or upon or about the shores of the said islands; such notice shall be given by affixing the same in some conspicuous place on or near to the encroachment, obstruction or nuisance complained of, and by publication thereof in the *Bombay Government Gazette*, and shall state that unless the nuisance, obstruction or encroachment be removed or abated within one month, the same will be removed or abated by the said Collector; such notice may be in the form No. 1, in the schedule to this Act annexed, or to the like effect.

Mode of giving notice.

Contents.

Form.

Petition by person denying right to remove nuisance.

2. If any person shall deny the right of the said Collector to effect such abatement or removal, he shall, within one month after such notice shall have been given as aforesaid, apply to the Supreme Court of Judicature at Bombay,

[a] Repealed by Act No XXII of 1855, so far as relates to the removal of any obstruction, impediment or public nuisance affecting, or likely to affect, the Port of Bombay.

by petition, setting forth the grounds of his alleged right, and praying that the said Collector may be restrained from causing such abatement or removal, and the said Court may thereupon (on the petitioner's giving sufficient security for costs), fix a time for hearing and adjudicating upon such petition, and give such directions and make such orders as the said Court may think just, and the said Court may also make an order for restraining the alleged nuisance, obstruction or encroachment from being extended, or from being abated or removed by the said Collector, until after adjudication upon the said petition, or the dismissal thereof for want of prosecution.

Procedure thereupon.

3. Upon the hearing of every such petition, the onus of proving the alleged right shall be on the petitioner.

Onus of proving right.

4. No person shall be allowed, after the expiration of such period of one month, to present any such petition as aforesaid, unless on satisfactorily accounting to the said Court for the delay.

Limitation of time for petition.

5. If no such petition shall be presented within the said period of one month, or if the same be presented and determined against the right of the petitioner, or be dismissed for want of prosecution, it shall be lawful for the Collector to cause such abatement or removal as aforesaid, by any person or persons to be authorized by warrant under his hand, and such warrant may be in the form No. 2 in the schedule to this Act annexed, or to the like effect; and the said Collector, and any person acting under his warrant, shall not be answerable for any damage unavoidably occasioned in the removal of any such nuisance, obstruction or encroachment.

When Collector may cause removal of nuisance.

Form of warrant.

Indemnity.

6. The said Collector may sell the materials of any encroachment or obstruction removed under this Act, and may apply the proceeds of sale in or towards payment of the expenses of the removal, and if any surplus shall remain, the same shall be forfeited, and be paid and applied in such manner as the Governor of Bombay in Council shall direct.

Power to sell materials of encroachment.

7. Nothing in this Act shall prejudice or affect the rights of the Crown in any part of the said harbour, or of the sea-shore of the said islands, or preclude or interfere with any such proceedings, civil or criminal, for abating such nuisances and encroachments as aforesaid, as might have been had if this Act had not been passed.

Saving of rights of Crown.

8. The words "high-water mark" in this Act shall mean the ordinary line of high-water at monsoon tides.

"High-water mark" defined.

SCHEDULE.

Form No. 1.

Notice is hereby given by the Collector of land-revenue in Bombay, under

Act No. XI of 1853, that (*describe the encroachment*) is to be removed or abated within one month from the date hereof, otherwise the same will be removed or abated by the said Collector under the authority of the said Act. Dated the day of in the year of our Lord

(*Signature of Collector.*)

FORM No. 2.

THIS warrant, granted by the Collector of land-revenue in Bombay, under Act No. XI of 1853, is to authorize of to remove (*describe encroachment.*)

(*Signature of Collector.*)

Dated

ACT No. X of 1855.

Received the Governor General's assent on the 21st of March, 1855.

An Act to amend the law relating to the attendance and examination of witnesses in the Civil Courts of the East India Company in the Presidencies of Fort St. George and Bombay, and to amend the provisions of section 40, Act XIX of 1853.

Liability of person not obeying summons, absconding or refusing to give evidence.

10. Any person, whether a party to the suit or not, to whom a summons to attend and give evidence or produce a document shall be personally delivered, and who shall, without lawful excuse, neglect or refuse to obey such summons, or who shall be proved to have absconded or kept out of the way to avoid being served with such summons, and any person who, being in Court, and upon being required by the Court to give evidence or produce a document in his possession, shall, without lawful excuse, refuse to give evidence or sign his deposition, or to produce a document in his possession, shall, in addition to any proceedings to which he would otherwise be subject, be liable to the party at whose request the summons shall have been issued, or at whose instance he shall be required to give evidence or produce the document, for all damages which he may sustain in consequence of such neglect or refusal, or of such absconding or keeping out of the way as aforesaid, to be recovered in a civil action.[a]

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[a] Declared to apply to the whole of the Bombay Presidency except the Scheduled Districts, Act No. XV of 1874.

ACT No. VIII of 1856.

Received the Governor General's assent on the 14th of March, 1856.

An Act for the better control of the Gaols within the Presidencies of Fort St. George and Bombay.[a]

Preamble. WHEREAS it is expedient to make provision for the better control of the gaols within the Presidencies of Fort St. George and Bombay; It is enacted as follows:—

1.—[*Repealed by Act No. XIV of 1870.*]

Control of gaols. Power to appoint person to inspect and superintend them. 2. The control of all gaols in each of the said Presidencies shall be vested in the Governor in Council; and it shall be lawful for the said Governor in Council, with the previous sanction of the Governor General of India in Council to the creation of the office, to appoint such person or persons as he shall think fit, to inspect and superintend the said gaols, subject to the orders of the said Governor in Council, and to vest in such person or persons such power and authority for the purposes aforesaid as to the said Governor in Council may seem proper.

ACT No. XIII of 1856.

Received the Governor General's assent on the 13th of June, 1856.

An Act for regulating the Police of the towns of Calcutta, Madras and Bombay.[b]

Preamble. WHEREAS it is expedient to consolidate and amend the laws relating to the Police, of the towns of Calcutta, Madras and Bombay; It is enacted as follows:—

Interpretation. 2. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, (that is to say)—

"Local Government." the expression "Local Government" shall mean the person or persons for the time being immediately administering the executive government of that portion of the territories in the possession and under the Government of the East India Company, in which the town is situated:

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[a] Declared to apply to the whole of the Bombay Presidency except the Scheduled Districts, Act No. XV of 1874.

[b] Repealed as to Calcutta, Bengal Act No. IV of 1866 as to Madras, Madras Act No VIII of 1867

"Magistrate." the word "Magistrate" shall mean any Magistrate of Police acting for the place where the matter requiring the cognizance of a Magistrate arises:

"Town." the word "town" shall include all places within the local limits of the jurisdiction of Her Majesty's Supreme Courts of Judicature at *Calcutta, Madras and* Bombay:

"Property." the word "property" shall include any chattel, money or valuable security:

Number. words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number:

Gender. words importing the masculine gender shall include females:

"Person." the word "person" shall include a corporation:

"Month." the word "month" shall mean calendar month:

"Oath." the word "oath" shall include any affirmation or declaration lawfully substituted for an oath:

"Cattle." the word "cattle" shall, besides horned cattle, include horses, asses, mules, sheep, goats and swine.

Appointment and removal of Commissioner of Police.

3. The administration of the Police in each of the said towns shall be vested in an officer to be styled the Commissioner of Police for such town, who shall from time to time be appointed by the Local Government, and may be removed by the same authority, and who shall receive such salary as the Governor General of India in Council shall allow.

All powers which by law are given to a Superintendent of Police in any such town shall be vested in the Commissioner of Police, except as is otherwise provided by section 1 of this Act.

Appointment of Deputies to Commissioner of Police.

4. The Local Government, with the sanction of the Governor General in Council, may from time to time appoint one or more Deputies to the Commissioner of Police, who shall be competent to perform any of the duties assigned to that officer under his orders.

The Deputy Commissioners may be removed at any time by order of the Local Government.

Commissioner of Police shall not ordinarily be Magistrate.

5. The Commissioner of Police shall not ordinarily be a Magistrate of Police under this Act, but, with the sanction of the Governor General of India in Council, may be appointed to that office, when the Local Government, for special reasons, may deem it expedient.

Commissioner of Police to be Justice of Peace, but to act only in certain cases.

6. The Commissioner of Police shall be appointed a Justice of the Peace, but, unless he is vested with the jurisdiction of a Magistrate of Police, he shall act as a Justice only so far as may be necessary for the preservation of the peace, the prevention of crimes, and the detection, apprehension and detention of offenders in order to their being brought before a Magistrate of

Police; and so far as may be necessary for the performance of the duties assigned to the Commissioner by this Act.

The Deputies to the Commissioner of Police may be appointed Justices of the Peace, and if so appointed, shall act in that capacity, subject to the above restriction.

Constitution of Police-force.

7. For each of the said towns there shall be a Police-force, which shall consist of such number of officers and men, and shall be otherwise constituted in such manner, as shall be, from time to time, ordered by the Local Government, with the sanction of the Governor General of India in Council.

Police to be under control of Commissioner. Rules for its government to be made by Commissioner and approved by Government.

8. The Police-force shall be under the exclusive direction and control of the Commissioner of Police, who may, from time to time, subject to the approbation of the Local Government, frame such orders and regulations as he shall deem expedient, relative to the general government of the force, the places of residence, the classification, rank, distribution and particular service of the several members thereof; their inspection; the description of arms, accoutrements and other necessaries to be furnished to them; and all such other orders and regulations relative to the said Police-force as the said Commissioner shall, from time to time, deem expedient for preventing neglect or abuse, and for rendering such force efficient in the discharge of all its duties.

9.—[*Repealed by Act No. XVI of 1874.*]

Appointment, suspension and dismissal, &c., of Police.

10. The appointment of the members of the Police-force shall rest with the Commissioner of Police, and he may, at any time, suspend or dismiss any member of the force whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Power of Commissioner to fine members of Police.

11. For any lesser breach of discipline, or other misconduct not requiring the suspension or dismissal of the offender, a member of the Police-force may be fined by the Commissioner in any sum not exceeding one-half of his monthly pay.

Additional penalties for Police for neglect of duty, &c.

12. For neglect or violation of duty in his office, and for any breach of the orders and regulations framed as aforesaid, every member of the Police, besides being suspended or dismissed from his employment at the discretion of the Commissioner, shall be liable, on conviction before a Magistrate, to a fine not exceeding one hundred rupees (which may be deducted from any salary then due to such offender), or to imprisonment, with or without hard labour, for any time not exceeding three months.

13.—[*Repealed by Act No. XLVIII of 1860.*]

Members to receive certificates vesting them with powers of constable.

14. Every member of the Police-force shall receive on his enrolment a certificate (A), under the signature of the Commissioner of Police, by virtue of which he shall be vested with the powers, functions and privileges of a constable. Such certificate shall cease to have effect whenever the person named

in it is suspended or dismissed, or otherwise removed from employment in the force.

15.—[*Repealed by Act No. XLVIII of 1860.*]

Penalty for dismissed members not delivering up clothing, accoutrements, &c.

16. Every member of the Police-force who shall be dismissed from, or shall cease to hold and exercise, his office, and who shall not forthwith deliver up his certificate, and all the clothing, accoutrements and appointments, and other necessaries which may have been supplied to him for the execution of his duty, to the Commissioner or to such person, and at such time and place as shall be directed by the said Commissioner, shall be liable, on conviction before a Magistrate, to imprisonment, with or without hard labour, for any time not exceeding one month.

And it shall be lawful for the Commissioner, or for any Magistrate, to issue his warrant to search for and seize all the clothing, accoutrements, appointments and other necessaries which shall not be so delivered over, wherever the same may be found.

Bombay City Police Superannuation Fund.

17. There shall be deducted from the salary and authorized allowances [a] of every member of the Bombay City Police-force of a class not entitled to the benefit of the uncovenanted service pension-rules a sum according to such rate as the Local Government shall direct, not being a greater rate than one anna in the rupee, which sum so deducted, and also the money accruing from stoppages from members of the said Police-force during absence from sickness or other cause, and fines imposed on members thereof for misconduct, and from fines imposed by Magistrates upon drunken persons, or for assaults upon Police-officers, and all moneys arising from the sale of worn or cast-off clothing or other articles supplied for the use of the Police, shall from time to time be invested in such manner and in such securities as the Local Government may, in writing, direct, and the interest and dividends thereof, or so much of the same as shall not be required for the purposes hereinafter mentioned, shall be likewise invested as aforesaid, and accumulate, so as to form a fund to be called "The Bombay City Police Superannuation Fund," and shall be applied from time to time to payment of such superannuation or retiring allowances or gratuities as may be ordered by the Local Government at any time to any of the aforesaid members of the Police-force, as hereinafter provided.[b]

Superannuation pension to Police.

18. It shall be lawful for the Local Government to sanction that any member of the said class of the Police-force aforesaid may be superannuated

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[a] See Bombay Act No. II of 1879.

[b] Sections 17, 18, 19, as here printed, were substituted by Bombay Act No. I of 1878, for those originally enacted

and receive thereupon out of the said Superannuation Fund a monthly pension, subject to the following conditions; that is to say—

First.—If the period during which the individual shall have actually served in the said Police-force, after attaining the age of twenty-two years, be more than fifteen years, but less than twenty years, he may on production of a certificate under the hand of the Police Surgeon, that he is physically unfit for further efficient service in the Police, and that such unfitness is not the result of intemperance, be granted a pension the amount of which shall not exceed one-third of his monthly salary or authorized official allowances, calculated on an average of the five years next preceding the date of his application for pension.

Second.—If the period of his actual service in the said Force, after attaining the age of twenty-two years, be over twenty years and under twenty-five years, the applicant may, on production of such a certificate as aforesaid, be granted a pension not exceeding in amount one-half of his salary or authorized allowances, calculated in the manner above stated.

Third.—If the period of his actual service in the said Force, after attaining the age of twenty-two years, be upwards of twenty-five years, the applicant may be granted a pension not exceeding one-half of his salary or authorized allowances, calculated as above stated, without the production of such medical certificate.

Allowances to officers disqualified by injury, &c., in execution of duty.

19. If any member of the said Police-force shall at any time become disqualified for further Police-service by any wound or injury received in such service, he may be granted from the said fund a pension of such amount not exceeding one-half of his average pay and allowances during the five previous years of his service, or such gratuity as the Local Government may think fit.

Power to appoint special constables.

20. The Commissioner of Police may, of his own authority, appoint special constables to assist the Police-force on any temporary emergency.

Appointment of additional constables on application of private persons.

21. The Commissioner of Police may also, if he shall think fit, on the application of any person showing the necessity of it, appoint any additional number of constables to keep the peace at any place within his jurisdiction, at the charge of the person applying, but subject to the orders of the said Commissioner, and for such time as he shall think fit; and every such constable shall receive a certificate, by virtue of which he shall be vested with all the powers, privileges and duties of the constables belonging to the Police-force:

Discontinuance

Provided that the person upon whose application such appointment shall have been made may, upon giving one month's notice in writing to the Commissioner of Police, require that the constables so appointed at his expense shall be discontinued, and thereupon the said Commissioner shall discontinue

such additional constables; and all monies received by the Commissioner for the payment of any such additional constables shall be accounted for by him.

22, 23.—[*Repealed by Act No. IV of 1877.*]

Service of criminal process by Police.

24. All summonses, subpœnas and warrants issued in any criminal proceeding by a Commissioner or Deputy Commissioner of Police, shall be served and executed within the said towns by an officer of the Police-force, and by none other.

Execution of warrants.

25. When any warrant shall be directed or delivered to any such officer, unless the authority issuing it shall order that it be executed without delay, such Police-officer shall deliver the same to the superior officer in charge of the division to which he belongs, who shall appoint, by endorsement thereon, one or more Police-officers to execute the same; and every Police-officer whose name shall be so endorsed thereon shall have the same powers, privileges and protection as if the same had been originally directed to him by name.

26 to 31.—[*Repealed by Act No. IV of 1877.*]

32, 33, 34.—[*Repealed by Act No. XLVIII of 1860.*]

Fraudulent possession of stolen property.

35. *Clause 1.*—Whoever has in his possession, or conveys in any manner, any thing which may be reasonably suspected of being stolen or fraudulently obtained, shall, if he fail to account satisfactorily how he came by the same, be liable to a penalty not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months.

Power to summon persons declared by accused to have had possession within jurisdiction.

Clause 2.—If any person, charged with having or conveying any thing stolen or fraudulently obtained, shall declare that he received the same from some other person, or that he was employed as a carrier, agent or servant, to convey the same for some other person, the Magistrate may cause every such other person, and also, if necessary, every former or pretended purchaser or other person through whose possession the same shall have passed (provided that such other person shall be alleged to have had possession of the same within the jurisdiction of such Magistrate), to be brought before him and examined, and shall examine witnesses touching the same;

Penalty if such possession fraudulent.

and if it appear to such Magistrate that any person so brought before him had possession of such thing, and had reasonable cause to believe the same to have been stolen or unlawfully obtained, such person shall be liable to a penalty not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months.

36, 37.—[*Repealed by Act No. IV of 1877.*]

38, 39, 40.—[*Repealed by Act No. XLVIII of 1860.*]

41, 42.—[*Repealed by Act No. IV of 1877.*]

43.—[*Repealed by Act No. XLVIII of 1860.*]

44, 45.—[*Repealed by Act No. IV of 1877.*]

Persons who may be arrested without warrant.

46. Any person found between sunset and sunrise, armed with any dangerous or offensive instrument whatsoever, with intent to commit any felonious act;

any reputed thief found between sunset and sunrise on board any vessel or boat, or lying or loitering in any bázár, street, road, yard, thoroughfare or other place, who shall not give a satisfactory account of himself;

any person found between sunset and sunrise, having his face covered, or otherwise disguised, with intent to commit any felony;

any person found between sunset and sunrise, in any dwelling-house or other building whatsoever, without being able satisfactorily to account for his presence therein; and

any person having in his possession, without lawful excuse (the proof of which excuse shall be on such person), any implement of house-breaking—

may be taken into custody by any Police-officer without a warrant, and shall be liable to imprisonment, with or without hard labour, for a term not exceeding three months.

Penalty for carrying arms without authority.

47. Whoever, not being a soldier or sailor in the Army or Navy of the Queen, or a Police officer, goes armed with any sword, spear, gun or other offensive weapon, in any street, thoroughfare or public place, unless by leave of the Commissioner of Police, shall be liable to be disarmed by any Police-officer;

and the weapon so seized shall be forfeited to the Government, unless redeemed by payment of a fine, at the discretion of the Commissioner, not exceeding ten rupees.

Penalty for taking spirit into barracks or on war-vessels.

48. Whoever, not being amenable to the articles of war, takes or attempts to take *into Fort William at Calcutta, or Fort St. George, or* into the barracks or buildings occupied by the troops composing the garrison of Bombay, or into any military barracks, guardrooms or encampments within any of the said towns, or on board or alongside of any vessel of war belonging to Her Majesty in the ports of the said towns, any spirits or spirituous or fermented liquors, or intoxicating drugs or preparations, without the license in writing of the commanding officer (unless such articles belong to some person above the rank of non-commissioned officer), shall be liable to a fine not exceeding one hundred rupees, or imprisonment for any term not exceeding two months, with or without hard labour; and such liquors, drugs or preparations, and the vessels containing the same, shall be forfeited.

Penalty for taking spirit, &c., into jail.

49. Whoever takes, or attempts to take, without due permission, or throws, or attempts to throw, into any jail or house of correction, or into any public hospital, any spirits or spirituous or fermented liquors, or intoxicating drugs or preparations, shall be liable to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, for any term not exceeding two months.

50, 51, 52.—[*Repealed by Act No. XLVIII of 1860.*]

Disorderly conduct in public houses

53. Whoever, being the keeper of any such house or place of public resort and entertainment in the said towns, knowingly permits drunkenness or other disorderly behaviour in such house or place, or knowingly suffers any gaming whatsoever therein, or who knowingly permits prostitutes, or persons of notoriously bad character, to meet or remain therein, or who wilfully harbours or conceals any soldier, seaman or apprentice, knowing, or having reason to believe, such soldier, seaman or apprentice, to be a deserter, shall be liable to a fine not exceeding one hundred rupees, and shall also be liable to forfeit his license.

Penalty for harbouring or concealing deserters from merchant-vessels.

54. Whoever, in any place within any of the said towns, wilfully harbours or conceals any seaman or apprentice belonging to a merchant-vessel, knowing, or having reason to believe, such seaman or apprentice to be a deserter, shall be liable to a fine not exceeding one hundred rupees.

55.—[*Repealed by Act No. XLVIII of 1860.*]

Penalty for owning, keeping, or being employed in, gaming-house, &c

56. Whoever, being the owner or occupier, or having the use of any house, room or place, opens, keeps or uses the same for the purpose of gaming being carried on therein; and

whoever, being the owner or occupier of any house or room, knowingly and wilfully permits the same to be opened, kept or used by any other person for the purpose aforesaid; and

whoever has the care or management of, or in any manner assists in conducting, the business of any house, room or place opened, kept or used for the purpose aforesaid; and

whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, room or place—

shall be liable to a fine not exceeding five hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months.

Penalty for being found playing in gaming-house.

57. Whoever is found in any such house, room or place, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable to a fine not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding one month;

and any person found in any common gaming-house during any gaming or playing therein, shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Power to issue warrant to Police-officer to enter gaming-house, to arrest, seize and search.

58. If the Commissioner of Police, upon information on oath, and after such enquiry as he may think necessary, has reason to believe that any house, room or place is used as a common gaming-house, he may, by his warrant, give authority to any inspector or superior officer of Police to enter, with such

assistance as may be found necessary, by night or by day, and by force if necessary, any such house, room or other place, and to take into custody all persons whom he finds therein, whether or not then actually gaming, and to seize all instruments of gaming, and all monies, and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein, and to search all parts of the house, room or place which he shall have so entered, when he has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he so takes into custody, and to seize and take possession of all instruments of gaming found upon such search.

59.—[*Repealed by Act No. XLVIII of 1860.*]

On conviction for keeping gaming-house, instruments of gaming to be destroyed, &c.

60. On conviction of any person for keeping any such common gaming-house, or being present therein for the purpose of gaming, all the instruments of gaming found therein shall be destroyed by order of the Magistrate, who may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof, with all monies seized therein, to be forfeited, or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Proof of playing for stakes unnecessary.

61. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager or stake.

Witnesses indemnified.

62. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act, relating to gaming, and who, upon such examination, shall make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, and who shall thereupon receive from the said Magistrate a certificate in writing to that effect, shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

Act not to apply to certain games.

63. Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill played at licensed hotels, taverns or eating-houses, or places of public resort.

Penalty for cheating at games.

64. Whoever, by any fraud or unlawful device or ill-practice in playing at or with cards, dice or other game, or in bearing a part in the stakes, wagers or adventures, or in betting on the sides or hands of them that do play, or in wagering on the event of any game, sport, pastime or exercise, wins from any other person, for himself or any other or others, any sum of money or valuable thing, shall be deemed guilty of obtaining such money or

valuable thing from such other person by a false pretence, with intent to cheat or defraud such person of the same, and, being convicted thereof, shall be liable to punishment accordingly

Portion of fine may be paid to informer

65 The Magistrate may direct any portion, not exceeding one-fourth, of any fine which shall be levied under sections 56 and 57 of this Act, or any part of the monies or proceeds of articles seized and ordered to be forfeited under section 60 to be paid to an informer

Gambling in streets

66 A Police-officer may apprehend without warrant any person found gaming with cards, dice, counters, money or other instruments of gaming in any public street, place or thoroughfare, or publicly fighting cocks, or present as a spectator of such cock-fighting; and such person shall be liable to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labour, for any term not exceeding one month, and such instruments of gaming and money shall be forfeited.

67 —[*Repealed by Act No. XLVIII of 1860.*]

Pawn brokers and money changers to report stolen property under penalty for neglect

68 If any property regarding which written or printed information shall be given by any Police-officer to any pawn-broker or dealer in second-hand property or money-changer as having been stolen, embezzled or fraudulently obtained, shall then be or thereafter come into the possession of or be offered in pawn or for sale or change to such pawn-broker, dealer or money-changer, he shall, without unnecessary delay, give information to the Commissioner of Police or at the Police-office, that certain property answering the description of the said property was offered to him, or is in his possession, and shall also state the name and address given by the party by whom the same was offered, or from whom the same was received, under a penalty not exceeding fifty rupees for each and every such neglect or offence;

provided always that, in the case of wearing apparel or other articles which it may be difficult for such pawn-broker or dealer to trace out and identify, no fine shall be exigible in respect of not reporting such articles, unless it shall appear to the Magistrate that such articles had been knowingly concealed by such pawn-broker or dealer.

Broker or dealer altering or defacing stolen articles after information of theft, deemed receiver of stolen goods

69 If any pawn-broker or dealer in second-hand goods or worker in gold or silver, after receiving information of the theft or the embezzling or the fraudulent disposal of any metals, goods or articles of whatsoever description, melts, alters, defaces or puts away the same, or causes the same to be melted, altered, defaced or put away, without having previously received the permission of the Commissioner of Police, and it shall be found that such metals, goods or articles were stolen, embezzled or fraudulently disposed of by the person from whom such pawn-broker, dealer or worker received the same or by any other person, then and in such case it shall be held that such pawn-

broker, dealer or worker knew that such metals, goods or articles were stolen, embezzled or fraudulently disposed of, and such pawn-broker, dealer or worker shall be proceeded against according to law as a receiver of stolen goods, or as being a party to the fraud, and punished accordingly; and no other evidence of his guilt shall be necessary than evidence of such melting, altering, defacing or putting away, after receiving information as aforesaid.

Manufacture or possession of gunpowder.

70. Whoever manufactures gunpowder or, without a license from the Commissioner of Police, has in his possession, in any house, shop, warehouse or other building, at any one time, a greater quantity of gunpowder than ten pounds, shall be liable to a fine not exceeding five hundred rupees, and also to forfeit such gunpowder so manufactured or possessed, together with the vessel or receptacle in which it may be contained.

Licenses by Commissioner of Police for sale and deposit of gunpowder, &c.

71. The Commissioner of Police may grant to any person a license for the sale or keeping in deposit of any quantity of gunpowder not exceeding fifty pounds, on such conditions, and for such term, not exceeding one year, as shall be specified in the license; and any person who shall be guilty of a breach of any of such conditions, shall, on conviction before a Magistrate, be liable to a fine not exceeding two hundred rupees, and to forfeit all gunpowder so kept in deposit contrary thereto, and the vessels containing it, and also, in the discretion of the Magistrate, or of the Commissioner, to forfeit his license.

Licenses for conveying and removing gunpowder.

72. The Commissioner of Police may grant to any person a license for the transit and carrying of gunpowder from one place to another, in such manner and in such quantity as he may deem advisable; and any person, not being duly licensed in that behalf, who carries or conveys a greater quantity of gunpowder than one pound from one place to another, shall be liable to a fine not exceeding fifty rupees.

Commissioner of Police may issue warrant to search for gunpowder, &c.

73. The Commissioner of Police, on credible information laid before him on oath, may issue his warrant authorizing a Police-officer to search in the day-time any house, shop, magazine or other building or place in which he has reasonable ground to suspect that any gunpowder is manufactured, sold or kept, or any boat, carriage, cart or other vehicle in which any gunpowder may be suspected to be carried, or any person suspected of carrying the same contrary to the provisions of this Act; and all gunpowder found on such search shall, together with the vessels or receptacles in which it may be stored, be immediately seized and kept, pending the judgment of a Magistrate.

Act not to apply to Government powder, &c.

74. None of the four last preceding sections shall extend to any Government-magazine or store, or building for the making or deposit of gunpowder under the authority or for the use of the Government, or to any gunpowder belonging to Her Majesty.

75, 76.—[*Repealed by Act No. XLVIII of 1860.*]

Regulation of public processions, &c, and of carriages and persons at places of public resort.

77 The Commissioner of Police, from time to time, as occasion may require, may, subject to the orders of the Local Government, make rules

for the conduct of all assemblies and processions in the public roads, streets or thoroughfares, prescribing the routes by which, and the times at which, such processions may pass; and

for keeping order in the public roads, streets, thoroughfares, ghâts and landing-places, and all other places of public resort, and preventing obstructions thereof on the occasion of such assemblies and processions; and in the neighbourhood of places of worship during the time of public worship; and in any case when the roads, streets or thoroughfares, ghâts or landing-places, may be thronged, or may be liable to be obstructed;

Licenses for use of music in streets

and may give licenses for the use of music in the streets on the occasion of Native festivals and ceremonies;

and every person opposing or not obeying the orders so issued by the Commissioner of Police, or violating the conditions of such license, shall be liable to a fine not exceeding one hundred rupees.

78.—[*Repealed by Act No. XLVIII of 1860.*]

Commissioner may refuse to register or cancel registry of unsafe boats.

79. The Commissioner may refuse to register any boat, or may cancel the registration thereof whenever it may appear to him to be in an unsafe state.

Penalty for neglecting or delaying to report accident to boat attended with loss of life.

80. Whenever any accident shall occur to a registered boat, attended with loss of the life of any one of the crew or passengers, the mánjhí, or, if the mánjhí be not forthcoming, the owner of the boat shall report the circumstances at the Police-office; and if the mánjhí or the owner, as the case may be, without lawful excuse, neglect or delay to make such report, he shall be liable to a fine not exceeding fifty rupees.

81, 82.—[*Repealed by Act No. XLVIII of 1860.*]

83, 84.—[*Repealed by Act No. IV of 1877.*]

Beggars.

85. Whoever, in any public road, street, thoroughfare or place, begs or applies for alms, or exposes or exhibits any sores, wounds, bodily ailment or deformity, with the object of exciting charity or of obtaining alms; or whoever seeks for, or obtains, alms, by means of any false statement or pretences, shall be liable to imprisonment, with or without hard labour, for any term not exceeding one month.

Police may arrest without warrant on view of offence.

86. Any Police-officer may arrest, without a warrant, any person committing, in his view, any offence against this Act.

87.—[*Repealed by Act No. IV of 1877.*]

Apprehension by private persons.

88. Whoever commits an offence on or with respect to the person or property of another, or, in committing an offence under this Act, injures or damages the person or property of another, may, if his name and address be

unknown, be apprehended by the person injured, or by any person who may be using the property to which the injury may be done, or by the servant of either of such persons, or by any person authorized by or acting in aid of him, and may be detained until he give his name and address and satisfy such person that the name and address so given are correct, or until he can be delivered into the custody of a Police-officer.

Penalty for assaulting or resisting person apprehending under preceding section.

89. If any person lawfully apprehended under the last preceding section shall assault or forcibly resist the person by whom he shall be so apprehended, or any person acting in his aid, he shall be liable to a fine not exceeding two hundred rupees.

Detention of persons taken into custody by Police without warrant.

90. Every person taken into custody without a warrant by a Police-officer, shall be taken to the station-house, in order that such person may be detained until he can be brought before a Magistrate, or until he shall enter into recognizances, with or without sureties, for his appearance before a Magistrate.

Power to take recognizance.

91. Whenever any person is brought to a station-house charged with any offence against this Act, other than a felony; or whenever a person charged with a felony is in the custody of any Police-officer without a warrant, it shall be lawful for the officer in charge of such station-house, or any superior officer of Police, if he shall deem it prudent, and, in the case of felony, if he shall deem it probable that the person is falsely accused, to enlarge such person on his own recognizance, with or without sureties, conditioned as hereinafter mentioned.

Condition of recognizance.

92. Every recognizance so taken shall be without fee or reward, and shall be conditioned for the appearance of the person thereby bound before a Magistrate at his next sitting, and the time and place of appearance, and the sum thereby acknowledged (not exceeding one thousand rupees), shall be specified in the said recognizance, or in the condition thereof; and the officer taking the recognizance shall enter into a book, to be kept for the purpose, the name, residence and occupation of the party, and his surety or sureties (if any), entering into such recognizance, together with the condition thereof, and the sum thereby acknowledged, and shall return every such recognizance to the Magistrate present at the time and place when and where the party is bound to appear.

Powers of Commissioner of Police acting on information of stolen goods being concealed.

93. If information shall be given on oath to the Commissioner of Police that there is reasonable cause for suspecting that anything stolen or unlawfully obtained is concealed or lodged in any dwelling-house, building or other place, or any ship or vessel, the Commissioner, by special warrant under his hand directed to any Police-officer, may cause such dwelling-house, building or other place, or ship or vessel, to be entered and searched at any time of the day, or by night, if power for that purpose be given by such warrant;

and the said Commissioner if it shall appear to him necessary, may empower such Police-officer, with such assistance as may be found necessary (such officer having previously made known his authority), to use force for the effecting of such entry, whether by breaking open doors or otherwise, and if, upon search thereupon made, such thing shall be found, then to convey the same before a Magistrate, or to guard the same on the spot until the offenders are taken before a Magistrate, or otherwise dispose thereof in some place of safety, and moreover to take into custody, and carry before the said Magistrate, every person found in such house or place, or ship or vessel, who shall appear to have been privy to the deposit of any such thing, knowing or having reasonable cause to suspect the same to have been stolen, or otherwise unlawfully obtained

Power to search for stolen property without warrant

94 If information shall be given to any officer of Police not below the rank of inspector that there is reasonable cause for suspecting that any stolen property is concealed or lodged in any dwelling-house or other place, and he shall have good grounds for believing that, by reason of the delay in obtaining a search-warrant, the property is likely to be removed, the said officer, in virtue of his office, may search for specific articles alleged to have been stolen in the houses and places specified,

provided always, that a list of the articles stolen or missing be delivered or taken down in writing, with a declaration stating that the robbery has been committed, and that the informant has good ground to believe that the property is deposited in such house or place, and provided, further, that the person who lost the goods, or his representative, accompany the officer in the search

95 to 98 —[*Repealed by Act No IV of 1877*]

99 —[*Repealed by Act No XLVIII of 1860*]

100 to 104 —[*Repealed by Act No IV of 1877*]

105 —[*Repealed by Act No XLVIII of 1860*]

106 —[*Repealed by Act No IV of 1877*]

If Magistrate certifies non appearance of person pursuant to recognizance, sum acknowledged may be recovered as fine

107 If any person, upon entering into such recognizance as is by this Act authorized to be taken, do not afterwards appear pursuant to such recognizance, the Magistrate before whom he ought to have appeared shall certify the fact of such non-appearance on the back of the recognizance, and thereupon the sum thereby acknowledged shall be recoverable in the manner provided by this Act for levying fines

108 to 111 —[*Repealed by Act No IV of 1877*]

112 —[*Repealed by Act No XLVIII of 1860*]

Moveable property of

113 Whenever any person dies intestate within any of the said towns leaving moveable property therein under two hundred rupees in value, which

property is, in the absence of any person entitled thereto, taken charge of by the Police for the purpose of safe custody, it shall be lawful for the Commissioner of Police to order the said property to be delivered, without letters of administration taken out, to any person claiming to be entitled to the whole or any part thereof; intestate under two hundred rupees in value may be taken charge of by Police, and delivered to claimant.

provided he shall be satisfied of the title of the claimant, and of the value of the property, by the oath or affirmation of the claimant, or by such other evidence as he may require.

114. The Commissioner of Police may, at his discretion, before making any order under the preceding section, take such security as he may think proper for the due administration and distribution of such property. Commissioner of Police may take security for due administration.

And nothing hereinbefore contained shall affect the right of any person to recover the whole or any part of the same from the person to whom it may have been delivered pursuant to such order. Saving of right of other person claiming.

115.—[*Repealed by Act No. XLVIII of 1860.*]

116. It shall be lawful for the Commissioner of Police, by order in writing to be affixed at the principal Police-stations, and also to be published in some public newspaper, to appoint from time to time certain periods within which any dogs found straying in the streets or beyond the enclosures of the houses of the owners of such dogs, may be destroyed. Power to appoint periods during which stray dogs may be killed

SCHEDULE OF FORMS.

FORM A.

A. B. has been appointed a Superintendent, inspector, jamadár, dárogha or peon (*as the case may be*) in the ( ) Police-force, and is vested with the powers, functions and privileges of a constable.

FORM B.

(Omitted, as the section (110) requiring it to be followed is repealed.)

ACT No. IV OF 1857.

Received the Governor General's assent on the 9th of February, 1857.

An Act to amend the law relating to the duties payable on tobacco, and the retail-sale and warehousing thereof in the town of Bombay.

WHEREAS it is expedient to amend the law relating to the duties payable Preamble.

on tobacco and the retail-sale and warehousing of that article in the town of Bombay; It is hereby enacted as follows:—

1.—[*Repealed by Act No. XIV of 1870.*]

Municipal duty on tobacco for consumption in Bombay.

2. All tobacco (except such small quantities as are hereinafter mentioned) imported from any place into the town of Bombay and intended for consumption therein shall be liable to a duty of seven rupees and eight annas per maund of forty sers of eighty tolas to the ser, which duty is hereinafter called the municipal duty; and such duty shall be leviable in addition to any customs-duty prescribed by law.

Municipal duty when payable.

3. The said municipal duty may be paid, at the option of the importer, either on the importation of the tobacco, or after it has been warehoused as hereinafter provided.

Duty not paid on importation, to be paid on removal from warehouse for consumption.

4. If the said municipal duty is not paid on importation, the tobacco shall be warehoused in a public or licensed warehouse; and the importer shall pay such duty on the said tobacco on its removal from the warehouse for consumption in the said town.

Remission of duty on re-exportation.

When tobacco so warehoused is re-exported to any place beyond the limits of the said town, the whole of the said municipal duty shall be remitted.

Bombay a warehousing port for tobacco.

5. The port of Bombay shall be held to be a warehousing port, so far as regards the warehousing of tobacco.

The import-duty in the said Act[a] mentioned shall, as to tobacco, include the municipal duty leviable under this Act.

Powers for collection and enforcing payment of duty.

6. The Commissioner of Customs, Salt and Opium, and officers of customs, shall have all the same powers and authorities for collecting and enforcing payment of the said municipal duty in addition to the powers and authorities specified in this Act, as they now have or shall have in respect of duties of customs.

Tobacco not to be imported otherwise than by sea.

7. It shall not be lawful, without the permission of the Commissioner of Customs, Salt and Opium, or other officer empowered by Government to grant such permission, to bring any tobacco or any preparation thereof into Bombay otherwise than by sea, nor to land the same at any other landing-places than such as may from time to time be prescribed by the Government of Bombay.

Landing-places to be prescribed.

Exemption from duty.

8. The foregoing provisions of this Act shall not be applicable to such small quantities of tobacco (not exceeding in weight four sers of eighty tolas to the ser) as are intended for the private consumption of the importer.

Permit necessary for removal of tobacco.

9. It shall not be lawful to remove any tobacco from one place to another within the said town, nor to carry or convey the same on any thoroughfare in the said town, nor to carry the same in any vessel or boat of less than forty

[a] *i. e.* Act No. XXV of 1836, repealed by Act No. XII of 1873

khandís burthen in any of the creeks or waters adjacent to the said town, without a permit from the Commissioner of Customs, Salt and Opium, which permit shall be in the form of schedule A to this Act annexed, or to the like effect;

any such permit shall be in force only between sunrise and sunset of the day for which it is granted:

Provided always, that it shall be lawful to convey without a permit any tobacco so far as may be necessary for the lawful importation thereof according to the provisions of this Act, and also small quantities of tobacco, not exceeding in weight four sers of eighty tolas to the ser, for personal or domestic use. Proviso.

10. No permit shall be granted for the removal from warehouse of any quantity of tobacco less than an entire bale or package: No permit for removal from warehouse of less than bale

Provided that, when tobacco is to be removed for consumption in the said town, the Commissioner of Customs, Salt and Opium may give permission to open any bale or package previous to removal, and to set aside such portion thereof as may be refuse or waste; and the said refuse or waste may be re-exported, under the rules for the re-export of tobacco, at any time within one month from the date of such permission, or, if it be not so re-exported, may be destroyed by order of the Commissioner. Proviso.

11. It shall not be lawful for any person to sell or offer for sale by retail any tobacco in the said town without a license from the Commissioner of Customs, Salt and Opium, or other officer duly empowered by Government in that behalf, which license shall be in force for a period of twelve calendar months from the date thereof, unless the person to whom the license is granted shall be deprived thereof under the provisions of this Act. License for retail-sale of tobacco.

A fee of one rupee shall be paid for every such license.

12. Any sale of tobacco not exceeding in weight fourteen sers of eighty tolas to the ser shall be deemed to be a retail-sale within the meaning of this Act. What to be deemed retail sale.

13. It shall not be lawful for any licensed retail-dealer in tobacco to carry on the retail-sale of the same, or to keep any store of the same, except at such shop or other premises as may be specified in his license; and the name of every retail-dealer in tobacco, together with the number of his license, shall be written or painted in English, Guzráti and Maráthí, in plain and legible characters of not less than one inch in height, on a board to be affixed in a conspicuous manner in the front of the shop or premises where such retail-sale is carried on. Retail-sale to be only at place mentioned in license. Name and number to be affixed to shop.

14. Every retail-dealer in tobacco shall, on or before the tenth day of each month, make to the Commissioner of Customs, Salt and Opium, or other officer as aforesaid, a separate return for each shop or place of sale for which he holds Monthly returns of stock to be made by retail-dealers.

a license, showing the quantity of tobacco on hand therein at the beginning of the preceding month, the quantity received during such month, and the persons from whom, and the dates on which, he received it, and the stock remaining at the close of such month;

and any retail-dealer who refuses or neglects to make such return, or makes a false return, shall be liable to be deprived of his license by the said Commissioner or other officer as aforesaid, and to pay a fine not exceeding two hundred rupees.

Retail dealer to enter in book, weight, &c., of tobacco received.

15. Every retail-dealer in tobacco shall, on the same day on which he shall receive any tobacco into any such shop or place of sale, enter in a book to be kept for that purpose, the weight of such tobacco, the day on which he receives the same, and the name of the person from whom, and the place from which, he receives it;

Inspection of book.

and such book shall be open to the inspection of the Commissioner of Customs, Salt and Opium, or other officer as aforesaid, or of any person authorized by the Commissioner or such officer to inspect the same;

and the Commissioner or other officer or person as aforesaid inspecting the said book may make any minute therein, or any extract therefrom, which he shall think fit;

and any retail-dealer who neglects or refuses to comply with the provisions of this section shall, for every offence, be liable to be deprived of his license by the said Commissioner or other officer as aforesaid, and to pay a fine not exceeding two hundred rupees.

Search-warrant.

16. The Commissioner of Customs, Salt and Opium, or other officer as aforesaid, may issue a warrant under his hand and seal to any public officer, commanding him to enter and search between sunrise and sunset any building or place to be specified in the warrant in which tobacco may be deposited under the provisions of this Act, or in which the Commissioner or other officer as aforesaid has been credibly informed, which information shall be taken down in writing, that tobacco is deposited contrary to the provisions of this Act, and to seize and take away from thence any tobacco or other articles subject to confiscation under this Act.

Power to arrest and detain.

17. The Commissioner of Customs, Salt and Opium, or other officer as aforesaid, or any public officer authorized by the Commissioner or such officer, may arrest and detain any person carrying or having charge of any tobacco

To search vehicles, &c.

liable to confiscation under this Act, and may detain and search any vessel or package, and any boat or vehicle, containing or conveying, or supposed to contain or convey, any such tobacco.

Confiscation of tobacco

18. All tobacco imported into the said town or removed from one place to another or kept within the said town, or found in the possession of any person

in the said town, selling or offering any portion thereof for sale, contrary to the provisions of this Act, and every vessel in which such tobacco is contained, and every vehicle, boat or animal employed with the consent and knowledge of the owner or his servant in conveying the same, shall be liable to confiscation: Illegally imported, removed, &c.

Provided always, that it shall be lawful for the adjudicating officer to mitigate the penalty of confiscation herein provided, by commuting the same to the payment of any fine not exceeding the value of the goods liable to confiscation; and every such fine may be enforced, if necessary, by the sale of the goods liable to confiscation. Mitigation of penalty.

19. Any person who shall illegally import, remove or sell in the said town any tobacco, or who shall knowingly have in his possession any tobacco subject to confiscation under this Act, shall be liable to a fine not exceeding ten times the value of such tobacco; and if the offender is a licensed retail-dealer, he shall be liable to be deprived of his license by the Commissioner of Customs, Salt and Opium, or other officer as aforesaid. Penalty for illegal importation, removal sale or possession. Revocation of license.

20. All confiscations and fines under this Act may be adjudicated and levied by any Magistrate of Police for the town of Bombay. Levy of fines and adjudication and sale of confiscations.

Goods adjudged liable to confiscation shall be sold under warrant of the Magistrate.

21. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the context repugnant to such construction :— Interpretation.

the words "town of Bombay" shall include all places within the islands of Bombay and Kolábá;

words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number;

words importing the masculine gender shall include females.

SCHEDULE A.

Form of Permit.

No.

A B has been permitted to remove from (Custom-House *or* licensed warehouse *or* shop No. , situated in Kabadevi Street, to warehouse or shop No. , in Bázár Street) the undermentioned quantity of tobacco between sunrise and sunset on the day of in the year

(*Signed*) ——————

Commissioner of Customs, Salt and Opium.

ACT No. XXIX of 1857.

Received the Governor General's assent on the 11th of September, 1857.

An Act to make better provision for the collection of land-customs on certain foreign frontiers of the Presidency of Bombay.[a]

Preamble. WHEREAS it is expedient to make better provision for the collection and management of land-customs on certain foreign frontiers of the Presidency of Bombay; It is enacted as follows:—

1.—[*Repealed by Act No. XIV of 1870.*]

2.—[*Repealed by Act No. XIII of 1871.*]

3.—[*Repealed by Act No. XI of 1869.*]

Customs-stations. 4. For the levy of duties of customs on goods exported by land to, or imported by land from, such foreign territories, customs-stations may be established at such places as may be determined by the Governor in Council.

Appointment of officers. 5. The Governor in Council may appoint such persons as he may deem fit for the control and supervision of the collection and management of the customs payable under this Act as Commissioners and Deputy Commissioners of Customs, or under such other designation as the said Governor in Council shall determine;

and may appoint all other proper persons to execute the duties of the several subordinate offices necessary to the due management and collection of the said customs:

Proviso. Provided that no new office shall be created without the previous consent of the Governor General of India in Council.

Government to prescribe roads by which goods may pass. 6. The Governor in Council may prescribe, by public notice in the official Gazette, by what roads and passes goods shall be allowed to pass into or out of any such foreign territory as is described in sections 2 and 3 of this Act;

and after such notice, goods which may be brought to any station established on other roads or passes than those so prescribed, shall be detained, and shall be liable to confiscation unless the person in charge thereof shall be able to satisfy the adjudicating officer that his carrying them by that road or pass was from ignorance or accident.

Goods unlawfully passed across frontier after sunset. 7. Goods unlawfully passed, or attempted to be passed unlawfully, across any frontier guarded by stations, between sunset and sunrise, shall be seized and confiscated.

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[a] See Act No. XI of 1869, s. 5.

Written application for permission to pass goods.

8. When goods are brought to be passed at any station established for the levy of duties and passing of goods, a written application, according to a form to be prescribed by the Commissioner of Customs, shall be made by the owner or person in charge, for permission to pass such goods; and such application shall contain a true description of the goods, with the marks, numbers and description of the packages containing the same, and a declaration of their value.

If any goods shall be passed or attempted to be passed without such an application in writing as is above described, they shall be liable to be seized and confiscated.

Misdescription of goods in application

9. Goods brought to be passed at any such station shall be liable to confiscation if the packages in which the same may be contained shall on examination be found not to correspond with the description of them given in the application, or if the contents thereof be found not to have been correctly described in regard to sort, quality or quantity, or if, in or among the packages, any goods not stated in the application be found concealed or mixed up with the specified goods.

Government to fix value of goods for levying duty.

10. The Governor in Council from time to time, by notice in the official Gazette, may fix a value for any article or number of articles liable to duty under this Act upon their value; and the value so fixed for such articles shall, till altered by a similar notice, be taken to be the value of such articles for the purpose of levying duty on the same under this Act.

Duty leviable on certain goods according to market-value.

11. When goods liable to duty, for which a value has not been fixed by such a notice as is above directed, or for which a fixed duty has not been declared, are brought to any such station as aforesaid, the duty leviable on such goods shall be levied according to the market-value of such goods.

Ascertainment of market-value for levy of duty.

12. If the value of any goods, upon which duty is leviable according to the market-value thereof, shall appear to be understated in the declaration of value prescribed in section 8, the officer authorized to receive duties of customs at the station where such goods are brought to be passed shall have power to take the goods, or any part thereof, as purchased for the Government at the price so declared; and whenever he shall so take goods for the Government, payment thereof shall be made for the same within one month from the date of the declaration, and the officer shall sell the goods so taken on account of Government;

and, if they shall realize on sale a sum exceeding all charges incurred on them by Government, a proportion not more than one-half of the excess shall at the discretion of the Commissioner, be payable to the officer who reported the under-valuation of the goods, who shall in like manner be liable to pay one-half of the nett loss that may accrue on the sale of the said goods.

Exemptions.

13. No goods liable to duty shall be exempted from the payment of such duty or of any part thereof, except under special order from the Governor in Council;

provided always that any officer authorized to receive duties of customs under this Act may, at his discretion, pass free of duty any passenger's personal baggage in actual use; and if any person shall apply to have goods passed as such baggage, such officer, acting under the orders of Government, shall determine whether they be passenger's personal baggage in actual use, or goods subject to duty under the provisions of this Act.

Certificate of payment of duty.

14. When goods are passed at any such station as aforesaid, the officer authorized to receive duties of customs at such station shall grant a certificate of the payment of such duty, or (if the case so require) of the goods having been passed free of duty.

Any officer of customs employed at a station established under this Act, may require any person in charge of dutiable goods which have been passed across the frontier to produce the certificate granted for such goods; and any goods which are unaccompanied by a certificate, or which on examination do not correspond with the specification contained in the certificate produced, shall be detained and shall be liable to confiscation.

Granting duplicate of lost certificate.

15. If a certificate be lost by any person to whom it may have been issued by the officer authorized to issue the same, the Commissioner of Customs or other officer duly authorized in that behalf, on being satisfied that no fraud has been committed or was intended, may grant a duplicate of such lost document upon payment of a fee of not less than one rupee nor exceeding ten rupees.

The Commissioner or other officer as aforesaid may also authorize any amendment to be made in any application made under this Act, but, if such amendment be required after such application is entered and recorded in the custom-house-books, then upon payment of a like fee for any amendment in a document so entered.

Station-officer permitting goods to pass without payment of duty.

16. Any station-officer who shall permit goods liable to duty to pass across the frontier without payment of duty, or who shall release any goods not covered by a sufficient certificate, or who shall permit such goods to pass by any road or pass other than the prescribed roads or passes, shall be liable, on conviction before a Magistrate, to imprisonment for any term not exceeding six months, or to a fine not exceeding five hundred rupees, or both.

Vexatious seizure by station-officer.

17. Any station-officer who shall needlessly and vexatiously injure goods under the pretence of examination or in the course of his examination, or who shall wrongfully detain goods for which there is produced a sufficient certificate, shall be liable, on conviction before a Magistrate, to imprisonment for any term

not exceeding six months, or to a fine not exceeding five hundred rupees, or both.

Obstruction of officers.

18. Whoever intentionally obstructs any officer in the exercise of any powers given by this Act to such officer, shall be liable, on conviction before a Magistrate, to imprisonment for any term not exceeding six months, or to a fine not exceeding one thousand rupees, or both.

Offering bribes to officers.

19. Whoever offers a bribe to any offier appointed under this Act, in order to induce such officer to act in a manner inconsistent with his duty, shall be liable for every such offence, on conviction before a Magistrate, to a fine not exceeding one thousand rupees, or to imprisonment for any term not exceeding six months, or both.

Adjudication of confiscations, &c.

20. In all cases in which, under this Act, goods are liable to confiscation, a Commissioner or Deputy Commissioner of Customs appointed under this Act may adjudicate such confiscation, or the same may be adjudged by an Assistant Commissioner of Customs appointed under this Act being a Justice of the Peace:

Provided that the power to adjudicate confiscation shall not extend as regards an Assistant Commissioner to goods beyond the value of one hundred rupees; and all cases adjudicated by an Assistant Commissioner shall be liable to revision by a Commissioner or Deputy Commissioner of Customs on appeal.

Restoration of forfeited goods.

21. In case any goods shall be seized as liable to confiscation, or detained as under-valued, under this Act, the adjudicating officer may order the same to be restored in such manner and on such terms and conditions as he thinks fit to direct; and if the owner of the same accept such terms and conditions, he shall not have or maintain any action for recompense or damage on account of such seizure or detention, and the adjudicating officer shall not proceed to condemnation.

Damages for vexatious seizure.

22. Any officer authorized to adjudicate customs-cases, if he shall decide that a seizure of goods made under the authority of this Act was vexatious and unnecessary, may adjudge damages to be paid to the owner by the officer who made such seizure, beside ordering the immediate release of the goods; and if the owner accepts such damages, no action shall thereafter lie against such officer in any Court of Justice on account of such seizure;

Penalty in mitigation of confiscation.

and if such adjudicating officer shall decide that the seizure was warranted, but shall deem that the penalty of confiscation is unduly severe, he may mitigate the same by levying on the goods so seized as aforesaid any portion of the market-value of such goods not less than one-tenth of such value;

Rewards to customs-officers.

and if the said officer adjudges confiscation, or any penalty in mitigation of confiscation, he may order that, from the sale of the goods, or from the

proceeds of any penalty inflicted in mitigation of confiscation, a proportion not exceeding, in all cases of seizure except seizures of salt or tobacco, one-half of the sum remaining after payment of all Government-demands, shall be distributed in rewards amongst such officers as he deems entitled thereto and in such proportion as he directs to each respectively.

In awarding rewards for the seizure of confiscated salt or tobacco, the said officer may award one-half of the proceeds of sale, without making any deduction on account of Government-demands.

ACT No. XLVIII OF 1860.

Received the Governor General's assent on the 26th of December, 1860.

An Act to amend Act XIII of 1856 (for regulating the Police of the towns of Calcutta, Madras and Bombay).

Preamble. WHEREAS it is expedient to amend certain provisions of Act XIII of 1856;[a] It is enacted as follows:—

Additions to Act XIII of 1856. 1. The following sections shall be read with and taken as part of the said Act XIII of 1856.

Penalty on Police-officers taking bribes. 2. Whoever, being a member of the Police-force or being employed in any Police-office, asks for or takes any bribe or unauthorized reward, may be dismissed by order of the Commissioner, and upon conviction before a Magistrate shall be liable to a fine not exceeding five hundred rupees, or to imprisonment with or without hard labour for any term not exceeding six months.

Members of Police not to resign without leave or notice. 3. No member of the Police-force, to be enrolled under this Act, shall be at liberty to resign his office, or to withdraw himself from the duties thereof, unless expressly allowed so to do in writing by the Commissioner, or unless he shall have given to the Commissioner six months' notice of his intention if a member of the mounted branch of the said force, and two months' notice if a member of any other branch;

Penalty and every member of the said force, who shall so resign or withdraw himself without such leave or notice, shall be liable, on the order of the Commissioner, to forfeit all arrears of pay then due to him; and, on the sentence of a Magistrate, if such Magistrate shall think fit, to pay a fine not exceeding fifty rupees, or to be imprisoned with or without hard labour for any term not exceeding two months.

4, 5, 6.—[*Repealed by Act No. IV of 1877.*]

Penalty for 7. Whoever assaults or resists, or aids or incites any person to assault or

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[a] See *supra*, p. 73.

resist, any Police-officer in the execution of his duty, shall be liable to a fine not exceeding two hundred rupees, or to imprisonment with or without hard labour for any term not exceeding six months, and if the offender shall at the time of committing the offence be undergoing a former sentence of imprisonment, the imprisonment awarded under this section shall commence and take effect from and after the expiration of such former sentence.

Assaulting Policeman in execution of duty.

8.—[*Repealed by Act No. IV of 1877.*]

9. Whoever, without satisfactory excuse, wilfully trespasses in or on any dwelling-house or premises, or any land or ground attached thereto, not thereby causing any actual damage, or on any ground belonging to Government, or appropriated to public purposes, shall be liable to a fine not exceeding twenty rupees.

Penalty for wilful trespass on property.

10.—[*Repealed by Act No. IV of 1877.*]

11. Whoever, in the town of Bombay has or keeps any such hotel, tavern, shop or place, or who sells by retail in any place any spirituous or fermented liquors without such license, shall be liable to a fine not exceeding fifty rupees for every day that such unlicensed house or place of any kind is kept open, or that such unlicensed sale is continued;

Penalty for keeping tavern, &c., and for retailing spirit in any place without license.

provided that nothing in this section shall apply to the sale, in reasonable quantities, of any drug, plant or substance in any druggist's or chemist's shop for medicinal purposes only.[a]

12. The Commissioner of Police shall, from time to time, grant licenses to the keepers of such houses or places of public resort and entertainment as aforesaid in the said towns, and upon such conditions, to be inserted in every such license, as he, with the sanction of the Local Government, from time to time, shall order, for securing the good behaviour of the keepers of the said houses or places of public resort and entertainment, and the prevention of drunkenness and disorder among the persons frequenting or using the same;

Licenses by Commissioner of Police for keeping taverns and places of public entertainment.

and the said licenses may be granted by the said Commissioner for any term not exceeding one year;

provided always that it shall not be lawful for the said Commissioner to grant a license to open or establish, or keep open, any house of public entertainment in which any provisions, liquors or refreshments of any kind, or in which any gánjá, chandu or other preparation of opium, hemp or other intoxicating drug, plant or substance, may be sold or consumed, to any person who has not taken out a license for the retail-sale of such articles, if a license be necessary, under the Ábkárí or Excise laws for the time being in force; and

Licenses to be granted only to persons who have taken out ábkárí licenses.

a. So much of sections 11, 12, 13, as relates to the sale of spirituous and fermented liquors in the city of Bombay, was repealed by Bombay Act No. IX of 1867.

any such license granted by the Commissioner shall become void whenever the license necessary under the Ábkárí or Excise laws shall terminate or be recalled.

And every holder of such license may be required by the Commissioner to fix in a conspicuous part of the house or place specified in the license a board, on which shall be legibly painted, in the English and vernacular languages, the name of the holder, and the articles he is licensed to deal in.

Fees on licenses

For every license granted under this section there shall be levied a fee of one rupee. But such fee shall not interfere with the levy of any fee, tax or duty on licenses to retail spirituous liquors in the Islands of Bombay and Kolába chargeable under Act V of 1842.[a]

Forfeiture of license and fine on breach of condition of license

13. A breach of any of the conditions of a license granted under the last preceding section shall, besides forfeiture of the license, be punishable by a fine not exceeding one hundred rupees, and such fine shall be recovered from the person licensed, notwithstanding that such breach may have been owing to the default or carelessness of the servant or other person in charge of the shop or place of sale.[b]

Brothels.

14. On proof to the satisfaction of the Commissioner of Police or of a Magistrate, that a house is used as a common brothel, or lodging-house for prostitutes or disorderly persons of any description, to the annoyance of the respectable inhabitants of the vicinity, such Commissioner or Magistrate may summon the owner or tenant of the house to answer the complaint, and on being satisfied that the house is so used and is therefore a source of annoyance and offence to the neighbours, may order the owner or tenant to discontinue such use of it, and if he shall fail to comply with such order within five days, may impose upon him a fine to the extent of twenty-five rupees for every day thereafter that the house shall be so used.

Common gaming-houses

15. When any cards, dice, gaming-table or cloth, board or other instruments of gaming are found in any house, room or place, if information has been given on oath to the Commissioner of Police that it is suspected of being used as a common gaming-house, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, room or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Police-officer or any of his assistants.

Taking pledge from child under age of fourteen

16. Whoever takes from any child, apparently under the age of fourteen years, any article whatsoever as a pawn, pledge or security for any sum of money lent or advanced to such child, or without the knowledge and consent of

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a, b So much of sections 11, 12, 13, as relates to the sale of spirituous and fermented liquors in the city of Bombay, was repealed by Bombay Act No IX of 1867.

the owner of the article, buys from such child any article whatsoever, shall be liable to a penalty not exceeding one hundred rupees.

Penalty for using false weights and measures.

17. Whoever, dealing in any articles by retail, has, in or about his shop or premises, or otherwise in his possession, without lawful or satisfactory excuse, any false instrument for weighing, or any false weight, or false measure of length or capacity, shall be liable to a fine not exceeding fifty rupees, or to imprisonment with or without hard labour for a term not exceeding one month; and every such false instrument, weight or measure shall be forfeited and destroyed.

Weights and measures held to be false.

Weights and measures shall be held to be false when they do not agree with standards to be kept in the office of the Commissioner of Police, and in Bombay when they do not agree with the standards to be kept in the offices of the Commissioner of Police and of the clerk of the markets.

Powers of Police to enter shops to seize false weights and measures.

18. Any inspector or superior officer of Police may enter any shop or premises for the purpose of inspecting the weights and measures and instruments for weighing kept or used therein, and may seize any weight, measure or instrument for weighing which he may have reason to believe is false.

The power granted by this section may, in Bombay, be exercised by the clerk of the markets.

Penalty for following offences in public streets, &c.

19. Whoever, within such limits as shall be from time to time defined by the Commissioner of Police with the sanction of the Local Government, in any public street, road, thoroughfare or place of public resort, commits any of the following offences, shall be liable to a fine not exceeding fifty rupees:—

Furious or negligent driving or riding.

(1) whoever drives or rides any animal, or drives any vehicle, in a manner so rash or negligent as to indicate a want of due regard for the safety of others;

Driving, &c., elephant or camel.

(2) whoever drives, rides or leads any elephant or camel without permission from the Commissioner of Police;

Driving vehicle without sufficient light.

(3) whoever drives any vehicle of any description, at any time between three-quarters of an hour after sunset, and one hour before sunrise, without a sufficient light, except when, in the opinion of the Magistrate, there may be sufficient moonlight to render such light unnecessary;

Driving vehicle otherwise than on left side of road.

(4) whoever, without reasonable cause, shall drive a carriage, cart or other vehicle otherwise than on the left or near side of the road;

Exposing for show or training horses, or cleaning or repairing conveyances in places not allowed by Commissioner.

(5) whoever exposes for show, hire or sale, any horse or other animal, or any carriage, or cleans or dresses any horse or other animal, or cleans any carriage or other conveyance, or makes or repairs any part of any cart or carriage, except in cases of accident where repair on the spot is necessary; or trains or breaks any horse, except in such place and at such times as may be allowed by the Commissioner;

Letting loose horses, ferocious dogs, &c.

(6) whoever negligently lets loose any horse, or suffers to be at large any ferocious dog without a muzzle, or sets on or urges any dog or other animal to attack, worry or put in fear any person, horse or other animal;

Negligence in driving cattle.

(7) whoever, by negligence or ill-usage in driving cattle, causes any mischief to be done by such cattle, or in anywise misbehaves himself in the driving, management or care of such cattle, so as to cause mischief or obstruction;

Leaving cart, &c., without control

(8) whoever, being in charge of a cart, carriage or horse, leaves it at such a distance as not to have the same under due control;

Obstructing road or thoroughfare by carriage, &c.

(9) whoever causes any cart or truck, with or without horses or cattle, to remain or stand longer than may be necessary for loading or unloading, except at places lawfully appointed for the purpose; or leaves any cart, carriage or truck, or fastens any horse or other animal, so as to cause any obstruction in any thoroughfare;

Obstructing foot-way.

(10) whoever leads or rides any horse or other animal, or draws or drives any cart, carriage or truck upon any foot-way, or fastens any horse or animal so that it can stand across or upon any foot-way;

Obstructing thoroughfare by boxes, bales of goods, &c.

(11) whoever leaves any box, bale of goods or any other thing whatsoever so as to cause obstruction in any thoroughfare;

Exposing articles for sale so as to cause obstruction.

(12) whoever exposes for sale, or sets out in or upon any stall, booth, show-board, cask or basket, or otherwise, any meat, fish, vegetable, fruit, groceries or any other thing whatsoever, so as to cause obstruction in any thoroughfare;

Beating drums, tom-tom, &c.

(13) whoever beats a drum or tom-tom, or blows a horn or trumpet, or beats or sounds any brass or other metal instrument or utensil, except at such times and places as shall be from time to time allowed by the Commissioner of Police;

Lighting fires and discharging guns, fire-works, &c.

(14) whoever sets fire to or burns any straw or other matter, or lights any bonfire, or wantonly discharges any fire-arm or air-gun, or lets-off or throws any fire-work, or sends up any fire-balloon, in or near any public street, road or thoroughfare, except at such times and places as shall from time to time be allowed by the Commissioner of Police;

Illuminations

(15) whoever, without the consent of the Commissioner of Police, puts up any post or other thing on the side of any public street, for the purpose of affixing thereon lamps to illuminate the street;

Affixing bills, or otherwise defacing houses, &c.

(16) whoever, without the consent of the owner or occupier, affixes any bill or notice, or any paper, against or upon any building, wall or fence, or writes upon, defaces or marks any such building, wall or fence with chalk or paint, or in any way whatsoever;

Bathing, &c.,

(17) whoever bathes or washes himself in any public street, or in, upon,

or by the side of, any public tank, reservoir or aqueduct, not being a place set apart for such purpose; — In public street or aqueduct.

(18) whoever obstructs or incommodes a person bathing at any place set apart as a bathing-place, by wilful intrusion, or by using such place as a landing-place, or by anchoring or otherwise fastening or keeping boats, or by washing horses, cattle or dogs at or near such place, or in any other manner; — Obstructing persons at bathing-places.

(19) whoever uses any indecent, threatening, abusive or insulting words or behaves in a threatening or insulting manner, or posts up or affixes, or exhibits any indecent, threatening, abusive or insulting printed, lithographed or written paper or drawing, with the intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned. — Indecent language.

BENGAL SECRETARIAT LIBRARY

20. The Commissioner of Police in Bombay shall, from time to time, subject to the orders of the Local Government, make and publish in the Government Gazette, rules for the blasting of rocks in or near any public road, street, thoroughfare or place, in the Islands of Bombay and Kolábá; and may give licenses for such operations when he shall think fit, and every person who shall blast any such rocks, otherwise than according to the provisions of such rules, or who shall violate any condition of a license granted under this section, shall be liable to a fine not exceeding one hundred rupees. — Commissioner of Police, Bombay, to make rules for blasting of rocks.

21. Whoever cruelly beats, ill-treats, abuses or tortures or causes or procures to be cruelly beaten, ill-treated, abused or tortured any animal shall, for every such offence, be liable to a fine not exceeding one hundred rupees, and in default thereof to imprisonment, with or without hard labour, for a period not exceeding three months. — Cruelty to animals.

22. Whoever is found drunk and incapable of taking care of himself, or is guilty of any riotous, disorderly or indecent behaviour in any street or thoroughfare, or in any place of public amusement or resort; and whoever is guilty of any violent, disorderly or indecent behaviour in any Police-court office, station or section-house, shall be liable to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labour, for a term not exceeding fourteen days. — Penalty for drunkenness, or riotous or indecent behaviour in public.

23.—[*Repealed by Bengal Act No. IV of 1866.*]

24, 25, 26.—[*Repealed by Act No. IV of 1877.*]

27. When any person shall be served with a summons or subpœna under this Act, and shall fail to attend before the Commissioner *or Magistrate* issuing such summons or subpœna, according to the exigency thereof, he shall be liable to a fine not exceeding twenty rupees for every such offence, and in default of payment to imprisonment for one week if the fine be not sooner paid. — Punishment for non-attendance on summons or subpœna.

28. It shall be lawful for all persons, and it is hereby declared to be the special duty of all Police-officers, to seize all cattle or other animals found — Stray animals to be impounded and

Sold unless redeemed within ten days.

straying upon the roads, streets or thoroughfares, or trespassing on any of the grounds or property of the inhabitants, or of the Government, and to confine such animals in any public pound which shall for such purpose be, from time to time, appointed by the Commissioner of Police; and if such animals shall not be respectively redeemed by the owners of the same within ten days after being so pounded, by paying to the person to be appointed by the said Commissioner to have charge of such pound, the fee of eight annas for every goat, sheep or hog, and one rupee for every other animal, together with the expenses of feeding the same while impounded, according to a daily rate to be settled by the said Commissioner, such animals so impounded shall be publicly sold, and the produce of such sale after paying the said fee, and also the expenses of feeding, shall be paid to the owners of such animal, or, in default of their claiming such produce for the space of fifteen days after such sale, shall be retained by the said Commissioner, and credited to the Police Superannuation Fund.

Limitation of action.

29, *First.*—All actions and prosecutions against any person, which may be lawfully brought for anything done, or intended to be done, under the provisions of this Act, shall be commenced within three months after the act complained of shall have been committed, and not otherwise; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one month at least before the commencement of the action; and in every such action it shall be expressly alleged in the plaint, that the act complained of was done maliciously and without reasonable or probable cause, and if at the trial of any such action, upon the general issue being pleaded as hereinafter provided, the plaintiff shall fail to prove such allegation, he shall be non-suited, and a verdict shall be given for the defendant.

Notice of action.

Plea.

Second.—The defendant in any such action may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue any such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same, as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge, before whom the trial shall be, shall certify his approbation of the action, and of the verdict obtained thereupon.

Tender of amends.

Costs.

ACT No. II OF 1864.

Received the Governor General's assent on the 12th of February, 1864.

An Act to provide for the administration of civil and criminal justice at Aden.

Preamble.

WHEREAS the administration of civil and criminal justice at Aden is now entrusted to the Resident and in subordination to him to the Assistant Resident; and whereas Her Majesty has by Her Letters Patent, dated the twenty-second June, 1860, appointed the Resident at Aden to be Judge of Her Majesty's Vice-admiralty Court at Aden for the purposes of and according to the provisions of the Statute 12 & 13 Vic., cap. 84; and whereas the criminal law to be administered at Aden is provided for by the Indian Penal Code, but the law to be administered at Aden in civil matters and the precise nature of the criminal and civil jurisdiction of the Resident, and the proper course of procedure in his Court, have never been defined, and it is expedient that they should be provided for; and whereas at present judgments and proceedings of the Resident at Aden are not subject to the superintendence or revision of any Court of justice, except so far as they are subject to appeal to Her Majesty in Council, and it is expedient to provide for the superintendence or revision of certain of such judgments and proceedings by the High Court at Bombay; It is enacted as follows:—

Interpretation.

1. The following words and expressions in this Act shall have the meanings hereby assigned to them unless there be something in the subject or context repugnant thereto, that is to say:—

"Resident."

the word "Resident" denotes the chief civil officer at Aden appointed by the Government by whatever designation such officer may be called, and includes any Acting Resident or officer acting temporarily as such chief civil officer;

"Assistant Resident."

the words "Assistant Resident" denote any officer appointed by the Government to assist the Resident at Aden by whatever designation such officer may be called, and includes an Acting Assistant;

"Court of Resident."

the words "Court of the Resident" include the Court of any Assistant Resident;

Number.

words importing the singular number include the plural number, and words importing the plural number include the singular number;

Gender.

words importing the masculine gender include females.

CIVIL JURISDICTION.

Administration of civil justice vested in Court of Resident.

2. The administration of civil justice at Aden is hereby declared to be vested in the Court of the Resident.

Resident may try, in first instance, all cases instituted in Court of Resident.

3. The Resident may hear and determine, in the first instance, all cases instituted in the Court of the Resident, of whatever nature and whatever may be the amount or value of the property in dispute.

Cases triable by Assistant Residents.

4. The Assistant Residents shall have power to hear and determine, in the first instance, all cases instituted in the Court of the Resident of whatever nature and whatever may be the amount or value of the property in dispute.

Distribution of cases.

The Resident may from time to time direct in what manner the cases instituted in his Court shall be distributed amongst the Assistant Residents.

Appeal from Assistant Resident to Resident.

5. When any suit which relates to immoveable property, or in which the claim, estimated according to any law for the valuation of claims for the time being in force, shall exceed five hundred rupees in value, is tried in the first instance by an Assistant Resident, an appeal shall lie from his decision to the Resident.

An appeal shall also lie to the Resident from all orders passed by an Assistant Resident in the execution of a decree or other order from which, had the order been passed by a Court subordinate to the Court of a District Judge in the Presidency of Bombay, an appeal would have been allowed to the District Judge, as well as from all orders passed by an Assistant Resident in cases other than suits as defined in the Code of Civil Procedure.

Powers of Resident in hearing appeals.

6. For the hearing and determination of appeals from decisions and orders under the last preceding section, the Resident shall (save as herein is otherwise provided) possess and exercise the powers of a District Judge in the Bombay Presidency with reference to the Court subordinate to him.

Cases in which no appeal from Assistant Resident.

Power of revision

7. No appeal shall lie from the decision of an Assistant Resident in any suit not relating to immoveable property in which the claim estimated as aforesaid shall not exceed five hundred rupees in value; but the Resident may, within the period allowed for appeal in appealable cases, call for any proceedings of the Assistant Resident at any stage thereof, and may pass such orders thereon as he may think fit.

No appeal from Resident.

Reference of question of law, &c., to High Court.

8. No appeal shall lie from any decision or order of the Resident given or made by him, whether in the exercise of his original jurisdiction, or in the exercise of his jurisdiction as a Court of appeal or of revision; but if in the trial of any suit in which the claim estimated as aforesaid shall not exceed one thousand rupees in value, any question of law or of usage having the force of law or of the construction of a document affecting the merits of the decision shall arise, on which the Resident shall entertain doubts, the Resident may, either of his own motion, or on the application of any of the parties to the suit, draw up a statement of the case and submit it, with his own opinion, for the decision of the High Court of Judicature at Bombay:

and if in the trial of any suit or the hearing of an appeal in any suit in which the claim, estimated as aforesaid, shall exceed one thousand rupees in value, any question of fact or of law or of usage having the force of law or of the construction of a document affecting the merits of the decision shall arise, the Resident shall, on the application of any of the parties to the suit, or he may of his own motion, draw up a statement of the case and submit it with his own opinion for the decision of the said High Court

Resident may pass decree contingent upon opinion of High Court, pending which execution not to issue

9 The Resident may proceed in the case notwithstanding a reference to the High Court, and may pass a decree contingent upon the opinion of the High Court on the point referred, but no execution shall be issued in any case in which a reference shall be made to the High Court, until the receipt of the order of that Court

Full bench of High Court to decide cases referred.

10 Cases referred for the opinion of the High Court shall be heard by two or more Judges of that Court Before giving judgment the High Court may call for and peruse the whole or any part of the proceedings of the Court of the Resident, but shall not be bound so to do.

Parties may appear and be heard in person or by a pleader

11 The parties to the case may appear and be heard in the High Court in person or by a pleader.

Decision of High Court how transmitted

12 The High Court, when it has heard and considered the case, shall transmit to the Resident a copy of its judgment, under the seal of the Court and the signature of the Registrar, and the Resident shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the High Court

Costs of reference to High Court

13 Costs, if any, consequent on the reference of a case for the opinion of the High Court, shall be costs in the suit

Resident to have powers of Small Cause Court

14 When any suit tried in the first instance by the Resident is of such a nature as to be cognizable under Act XLII of 1860[a] (*for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter*), the Resident shall, in such suit, have all the powers conferred on, and shall be guided by all the provisions applicable to, a Court of Small Causes constituted within the Presidency of Bombay under the said Act or any other Act for the time being in force not being an Act relating to Courts of Small Causes in the Presidency-towns and every Assistant Resident who shall have been vested by the Governor of Bombay in Council with the powers of a Judge of a Court of Small Causes as defined in the said Act XLII of 1860 or any Act passed in supersession thereof,[b]

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[a] Repealed by Act No XI of 1865

[b] Act No XI of 1865

shall have the like powers and be guided by the like provisions in any suit tried by him in the first instance and of a nature cognizable under the said Act XLII of 1860, anything in section 5 of this Act contained to the contrary notwithstanding.

Administration of civil justice according to spirit and principles of Bombay laws and Regulations.

15. In the administration of civil justice, the Court of the Resident shall be guided by the spirit and principles of the laws and Regulations in force in the Presidency of Bombay, and administered in the Courts of that Presidency not established by Royal Charter, and in the High Court in the exercise of its jurisdiction as a Court of appeal from those Courts.

Civil Procedure.

Code of Civil Procedure applied

16 Except as otherwise provided in this Act, the proceedings in suits and cases of every description between party and party brought in the Court of the Resident shall be regulated by the Code of Civil Procedure, and by any other Act or Acts in relation to civil procedure in force for the time being.

Criminal Jurisdiction.

Administration of criminal justice how vested.

17. The administration of criminal justice at Aden is hereby declared to be vested in the Court of the Resident, save as is herein otherwise provided.

Governor of Bombay may give Assistant Residents certain powers

18. The Governor of Bombay in Council may invest any Assistant Resident with the powers of a Magistrate, or of a subordinate Magistrate of the first or second class as described in the Code of Criminal Procedure, and such Assistant Resident shall exercise such powers under the said Code, but subject to the provisions of this Act.

Appeal from Assistant Resident to Resident.

19. In every case tried by an Assistant Resident in which the punishment awarded shall be imprisonment for a period exceeding six months with or without fine, or shall be only a fine exceeding five hundred rupees, an appeal shall lie from the sentence of the Assistant Resident to the Resident.

No appeal shall lie from the sentence of an Assistant Resident in any case in which the punishment awarded shall be imprisonment for a period not exceeding six months with or without fine, or shall be only a fine not exceeding five hundred rupees; but the Resident may in all cases, within the period allowed for appeal in appealable cases, call for any proceedings whatever of the Assistant Resident at any stage thereof, and may pass such order thereon as he may think fit.

Exercise by Resident of powers of Court of Session and of Magistrate.

20. The Resident shall, except as in this Act is otherwise provided, exercise all the powers of a Court of Session as defined in the Code of Criminal Procedure, and he may also, when it shall seem to him proper so to do, exercise the powers of a Magistrate as defined in the said Code, except in cases triable before himself as a Court of Session.

As Court of Session, to hold gaol-deliveries.

21. The Resident in the exercise of his powers as a Court of Session shall hold gaol-deliveries at convenient periods, of which due notice shall be given, for the trial of all persons charged with offences punishable under the Indian Penal Code, or under any other law in force for the time being, who may be committed to take their trial before him as a Court of Session:

Powers of Resident as to trial of European British subjects.

Provided that the Resident shall not have power to try any European British subject charged with an offence punishable with death under the said Code.

Commitment in certain cases.

The commitment of any European British subject charged with any such offence shall be made to the High Court at Bombay.

In other cases.

In all other cases the commitments made within the limits of the jurisdiction of the Court of the Resident for offences punishable under the Indian Penal Code, shall be made to the Court of the Resident.

Commitment and trial of such subjects for offences other than those punishable with death.

22. If any European British subject shall be charged in Aden with any offence (other than an offence punishable with death under the Indian Penal Code), which a Justice of the Peace shall not be competent to punish, and there shall be sufficient grounds for committing him for trial, such European British subject shall be committed to the Court of the Resident, and shall be tried by the Resident.

Criminal Procedure.

Proceedings in criminal cases how regulated.

23. Save as in this Act otherwise provided, the proceedings in all criminal cases of any description brought in any Court in Aden shall be regulated by the Code of Criminal Procedure.

Trial of European or American by Resident to be by jury.

24. Criminal trials before the Resident as a Court of Session, in which a European (whether a British subject or not) or an American is the accused person or one of the accused persons, shall be by jury, and in such case the jury, if such European or American shall desire it, shall consist of at least one half Europeans or Americans, if such a jury can be procured.

List of jurors.

25. The Resident shall from time to time prepare and make out in alphabetical order, a list of persons residing at Aden who are in the judgment of the Resident qualified from their education and character to serve as jurors.

The list shall contain the names, places of abode and quality or business of every such person, and shall mention the race to which he belongs.

Publication of list.

26. Copies of such list shall be stuck up in the Court of the Resident, and every such copy shall have subjoined to it a notice stating that objections to the list will be heard and determined by the Resident at a time and place mentioned in the notice.

Criminal Procedure Code applied to jurors and lists.

27. All the provisions of the Criminal Procedure Code as to jurors and the list of jurors shall be applied, so far as the same can be applied respectively, to jurors and the list of jurors under this Act:

Military men not exempt.

provided that no person shall be exempt from the liability to serve as a juror on the ground only of his being in the military service:

provided also that the jurors shall be summoned by the Resident.

Confirmation of sentence of death.

28. If on any trial, sentence of death shall be passed by the Resident, such sentence shall not be carried into execution until it shall have been confirmed by the High Court at Bombay.

Power to commute.

It shall be lawful for the High Court at Bombay, in any case in which it shall seem proper so to do, to commute a sentence of death to a sentence of transportation for life, or for any shorter period not less than seven years.

No appeal from order of Resident.

29. No appeal shall lie from an order or sentence passed by the Resident in any criminal case.

Power to reserve points for High Court.

But it shall be at the discretion of the Resident to reserve any point or points of law for the opinion of the said High Court.

Review of case by High Court.

30. On such point or points of law being so reserved as in the last preceding section mentioned, or on its being certified by the Advocate-General at Bombay that in his judgment there is an error in the decision of a point or points of law decided by the Resident, or that a point of law decided by the said Resident should be further considered, the said High Court shall have full power and authority to review the case or such part of it as may be necessary, and finally determine such point of law, and thereupon to pass such judgment and sentence as to the said High Court shall seem right.

General Rules.

High Court frame rules for Resident's Court.

31. The High Court at Bombay shall have power to make and issue general rules for regulating the practice and proceedings of the Court of the Resident, and also to frame forms for every proceeding in the said Court for which the said High Court shall think it necessary that a form should be provided, for keeping all books, entries and accounts to be kept by the officers, and for the preparation and submission of any statements to be prepared and submitted by the Court of the Resident, and from time to time to alter any such rule or form: provided that such rules and forms shall not be inconsistent with the provisions of this Act, or of any other law in force.

ACT No. XX OF 1864.

Received the Governor General's assent on the 24th of March, 1864.

An Act for making better provision for the care of the persons and property of minors in the Presidency of Bombay[a]

WHEREAS it is expedient to make better provision for the care of the persons and property of minors in the Presidency of Bombay; It is enacted as follows:— Preamble.

1. The care of the persons of all minors (not being European British subjects) and the charge of their property shall vest in the civil Court. Care of persons and property of minors vested in civil Court.

2. Every person who shall claim a right to have charge of property in trust for a minor under a will or deed or other instrument in writing, or by reason of nearness of kin or otherwise, may apply to the civil Court for a certificate of administration; Persons empowered to apply for certificate of administration.

and no person shall be entitled to institute or defend any suit connected with the estate of which he claims the charge, until he shall have obtained such certificate: No person to institute or defend suit without certificate

Provided that when the property is of small value, not exceeding rupees two hundred and fifty, any Court having jurisdiction may allow any relative of a minor to institute or defend a suit on his behalf, although a certificate of administration has not been granted to such relative. Power to allow relative to act without certificate.

3. Any relative or friend of a minor in respect of whose property such certificate has not been granted, or, if the property consist in whole or in part of land or any interest in land, the Collector of the district, may apply to the civil Court to appoint a fit person to take charge of the property and person of such minor. Who may apply to Court to appoint person to take charge of property, &c., of minor

4. If the property be situate in more than one district, any such application as aforesaid shall be made to the civil Court of the district in which the minor has his residence. Application in case of property situate in more than one district.

5. When application shall have been made to the civil Court either by a person claiming a right to have charge of the property of a minor, or by any relative or friend of a minor, or by the Collector, the Court shall issue notice of the application and fix a day for hearing the same. Notice to issue on application.

On the day so fixed, or as soon after as may be convenient, the Court shall inquire summarily into the circumstances, and pass orders in the case. Summary inquiry.

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[a] Declared to apply to the whole of the Bombay Presidency except the Scheduled Districts, Act No XV of 1874

Power to direct subordinate Court to make inquiry.

Provided always that it shall be competent to the civil Court to direct any Court subordinate to it to make such inquiry and report the result.

Grant of certificate to person entitled under instrument in writing.

6. If it shall appear that any person claiming a right to have charge of the property of a minor is entitled to such right by virtue of a will or deed or other instrument in writing, and is willing to undertake the trust, the Court shall grant a certificate of administration to such person.

Grant to relative.

If there is no person so entitled, or if such person is unwilling to undertake the trust and there is any near relative of the minor who is willing and fit to be entrusted with the charge of his property, the Court may grant a certificate to such relative.

Court may appoint guardian of minor's person.

The Court may also if it think fit (unless a guardian have been appointed by the father), appoint such person as aforesaid, or such relative, or any other relative or friend of the minor, to be guardian of the person of the minor.

Court may call for report on character and qualification of relative or friend.

7. The Court may call upon the Collector or Magistrate for a report on the character and qualification of any relative or friend of the minor, who may be desirous or willing to be entrusted with the charge of his property or person, and it shall be incumbent on the Collector or Magistrate to furnish such report after making all due inquiry.

When provision made by Court for charge of property.

8. If no title to a certificate be established to the satisfaction of the Court by a person claiming under a will or deed or other instrument in writing, and if there be no near relative willing and fit to be entrusted with the charge of the property or person of the minor, and the Court shall think it to be necessary for the interest of the minor that provision should be made by the Court for the charge of his property or person, the Court shall proceed to make such provision in the manner hereinafter provided.

When Court may grant certificate to Public Curator or other person.

9. If the estate of the minor consists of moveable property or of houses gardens or the like, the Court shall grant a certificate to the Public Curator appointed under section 19, Act XIX of 1841 (*for the protection of moveable and immoveable property against wrongful possession in cases of successions*), or if there be no Public Curator, to any fit person whom the Court may select for the purpose.

Appointment of guardian.

10. Whenever the Court shall grant a certificate of administration to the estate of a minor as aforesaid, it shall at the same time appoint a guardian to take charge of the person and maintenance of the minor.

The person to whom a certificate of administration has been granted, unless he be the Public Curator, or the legal heir of the minor, or next in succession to the property, may be appointed guardian :

Provided that, in the case of minors who have inherited property by adoption, the natural father may be appointed guardian.

If the person appointed to be guardian be unwilling to discharge the trust gratuitously, the Court may assign him such allowance to be paid out of the estate of the minor as under the circumstances of the case it may think suitable. Guardian's allowance.

The Court may also fix such allowance as it may think proper for the maintenance of the minor, surviving parent, whether natural or adoptive, husband, wife and children, if any, and such allowance and the allowance of the guardian (if any) shall be paid to the guardian by the Public Curator or other person as aforesaid. Allowance for maintenance of minor, &c.

11. If the estate of the minor consist in whole or in part of land or any interest in land, the Court may direct the Collector of the district in which the larger part of the same may be situated to take charge of the estate. When Court may direct Collector to take charge.

12. The civil Court may take such security as it shall think necessary, from any person to whom it may grant a certificate of administration of the property of any minor under this Act: When Court may take security.

Provided always, that no such security shall be demanded from the Collector of a district or the Public Curator, when their services may be availed of. No security from Collector or Curator.

13. In all inquiries and other proceedings held or had by the civil Court under this Act, the Court may make such order as to the payment of costs by the person on whose application such inquiry was made or proceeding had, or out of the estate of the minor, or otherwise, as it may think proper. Order as to payment of cost of inquiries.

14. Whenever one or more of the proprietors of an estate which has been placed under the Collector's charge shall have passed his or their minority, the Collector shall represent the fact to the civil Court, and the Court, unless it see sufficient reason to the contrary, may direct the Collector to retain charge of the shares of the property of the still disqualified proprietors during the continuance of their disqualification, or until it shall be otherwise ordered by the Court; or the Court may direct the whole estate to be made over to the management of the proprietor or proprietors who shall have become of age, with such directions as to the share or shares of the still disqualified proprietor or proprietors as to the Court shall seem fit and proper. Procedure when proprietor of estate under Collector's charge comes of age.

15. The proceedings of the Collector in the charge of estates under this Act shall be subject to the control of the superior Revenue-authorities. Control of proceedings of Collector.

16. The Public Curator and every other administrator to whom a certificate shall have been granted under section 10 shall, within six months from the date of the certificate, deliver in Court an inventory of all the immoveable property belonging to the minor, and of all such sums of money, goods, Public Curator, &c., to furnish inventory and accounts.

effects and things as he shall have received on account of the estate, together with a statement of all debts due by or to the same.

And the Public Curator and every such other administrator shall furnish annually within three months from the first of May of the Christian era an account of the property in his charge, exhibiting the amounts received, disbursed and invested on account of the estate, and the balance in hand.

Proceedings if accuracy of inventory or account be impugned.

If any relative or friend of a minor, or any public officer by petition to the Court shall impugn the accuracy of the said inventory and statement or of any annual account, the Court may summon the Curator or administrator, and inquire summarily into the matter and make such order thereon as it shall think proper, or the Court, at its discretion, may refer such petition to any subordinate Court for investigation and report.

Investment of surplus-funds.

17. All sums received by the Public Curator or such other administrator on account of any estate, in excess of what may be required for the current expenses of the minor or of the estate, shall by him be invested on account of the estate, from time to time, in the public securities.

Powers of certificate-holder in management of estate.

18. Every person to whom a certificate shall have been granted under the provisions of this Act may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a minor, and may collect and pay all just claims, debts and liabilities due to or by the estate of the minor.

Sale or mortgage to which sanction required

But no such person shall have power to sell, alienate, mortgage or otherwise incumber any immoveable property, or to grant a lease thereof for any period exceeding five years, without the sanction of the civil Court previously obtained.

Relative or friend may sue for account.

19. It shall be lawful for any relative or friend of a minor at any time during the continuance of the minority to sue for an account from any manager appointed under this Act, or from any person to whom a certificate shall have been granted under the provisions of this Act, or from any such manager or person after his removal from office or trust, or from his personal representative in case of his death, in respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate.

Continuance of suit after disqualification has ceased.

20. If the disqualification of a person for whose benefit a suit shall have been instituted under this Act cease before the final decision thereof, it shall be lawful for such person to continue the prosecution of the suit on his own behalf.

Power to revoke certificate and

21. The civil Court for any sufficient cause may re-call any certificate granted under this Act, and may direct the Collector to take charge of the estate, or may grant a fresh certificate to the Public Curator or any other

person as the case may be, and may compel the person whose certificate has been recalled to make over the property in his hands to his successor, and account to such successor for all moneys received and disbursed by him. grant fresh one.

The Court may also for any sufficient cause remove any guardian appointed by the Court. Power to remove guardian.

22. The civil Court may impose a fine not exceeding five hundred rupees on any person who may wilfully neglect or refuse to deliver his accounts or any property in his hands, within the prescribed time or a time fixed by the Court, and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of Court, and may also commit the recusant to confinement in the civil jail until he shall consent to deliver such accounts or property. Penalty for not delivering accounts or property.

23. The civil Court may permit any person to whom a certificate shall have been granted under this Act not being the Public Curator, and any guardian appointed by the Court, to resign his trust, and may give him a discharge therefrom on his accounting to his successor duly appointed for all moneys received and disbursed by him and making over the property in his hands. Civil Court may permit resignation of trust, &c.

24. The Public Curator and every other administrator to whom a certificate shall have been granted under section 10 shall be entitled to receive such commission not exceeding five per centum on the sums received and disbursed by him, or such other allowance to be paid out of the minor's estate, as the civil Court shall think fit. Remuneration of Public Curator, &c.

25. Every guardian appointed by the civil Court under this Act who shall have charge of any male minor shall be bound to provide for his education in a suitable manner. Guardian to provide for minor's education.

The general superintendence and control of the education of all such minors shall be vested in the civil Court. Superintendence of education.

26. In the exercise of this superintendence and control, it shall be lawful for the civil Court to direct that such minor shall reside either with or without his guardian at the sadr station of the district, or at any other place within the Presidency of Bombay, and shall attend for the purposes of education such school or college as to the said civil Court may seem expedient, and to make such provision as may be necessary for the proper care and suitable maintenance of the said minor whilst attending such school or college. Civil Court may fix residence and place of education.

27. If it shall appear to the civil Court inexpedient to place any such minor at school or college, it shall, if the proceeds of the estate are sufficient for that purpose, cause such minor to be educated by a private tutor properly qualified, either at the family-residence of such minor or at the sadr station, or When Court may cause minor to be educated privately.

elsewhere within the Presidency of Bombay, and in that case also the civil Court shall have power to determine, from time to time, the place of residence of such minor, and to make such provision as may be necessary for his proper tuition and maintenance during the period of his education.

Charges for education, &c., to be paid out of profits of estate.

28. All charges and expenses which may be incurred on account of any male minor under the provisions of this Act, for college or school-fees, or for other charges of tuition or education, or by reason of his residence in any place other than his own home or otherwise, shall be defrayed from the profits of his estate in the same manner as other expenses incurred under the authority or with the sanction of the civil Court.

Power to pay marriage-expenses.

29. Every guardian appointed under this Act who shall have charge of an unmarried minor, shall pay all the necessary expenses of the marriage of such minor out of the estate; provided that these expenses shall in no case, without the sanction of the civil Court, involve the minor's estate in debt.

"Minor" defined.

30. For the purposes of this Act every person shall be held to be a minor who has not attained the age of eighteen years.

Appointment of guardian to minor having adult husband, not authorized.

31. Nothing in this Act shall authorize the appointment of a guardian of the person of a female whose husband is not a minor, or the appointment of any person other than a female as the guardian of the person of a female.

Guardianship during minority of husband when to cease.

If a guardian of the person of a minor be appointed during the minority of the husband of the minor, the guardianship shall cease as soon as the husband shall attain the age of majority.

Saving of Act XXXV of 1858.

32. Nothing in this Act shall be held to interfere with the provisions of Act XXXV of 1858 (*for making better provision for the care of the Estates of Lunatics*).

Appeal from orders of civil Court.

33. All orders passed by the civil Court under this Act shall be open to appeal to the High Court at Bombay, and shall be subject to all the provisions contained in section 366 of the Code of Civil Procedure.

"Civil Court" defined.

34. The expression "Civil Court" as used in this Act shall be held to mean the principal Court of original civil jurisdiction in the district, and shall not include the High Court of Judicature;

Saving of powers of High Court.

and nothing contained in this Act shall be held to affect the powers of the High Court of Judicature over the person or property of any minor subject to its jurisdiction.

Unless the contrary appears from the context—

Number

words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and

Gender.

words importing the masculine gender shall include females.

ACT No. XXIII of 1866.

Received the Governor General's assent on the 17th of May, 1866.

An Act to correct two clerical errors in the Letters Patent for the High Court of Judicature for the Presidency of Bombay.

Preamble. WHEREAS the twenty-second section of the Letters Patent for the High Court of judicature for the Presidency of Bombay, dated the 28th December, 1865, is as follows:—"And we do further ordain that the said High Court of judicature at Bombay shall have ordinary original criminal jurisdiction within the local limits of its ordinary original civil jurisdiction, and also in respect of all *such* persons beyond such limits over whom the said High Court of judicature at *Fort William in Bengal* shall have criminal jurisdiction at the date of the publication of these presents;" And whereas it is expedient to correct the two clerical errors in such section which are hereinbefore indicated by italics; It is hereby enacted as follows:—

Clause substituted for section 22 of revised Letters Patent of Bombay High Court. 1. In lieu of the said recited section, the following shall be substituted:—

"And we do further ordain that the said High Court of judicature at Bombay shall have ordinary original criminal jurisdiction within the local limits of its ordinary original civil jurisdiction, and also in respect of all persons beyond such limits over whom the said High Court of Judicature at Bombay shall have criminal jurisdiction at the date of the publication of these presents."

ACT No. IV of 1868.

Received the Governor General's assent on the 14th of February, 1868.

An Act to exempt certain villages in the Bombay Presidency from the operation of the Regulations and Acts in force in that Presidency.[a]

Preamble. WHEREAS the villages mentioned in the schedule to this Act have, by virtue of the enactments hereinafter specified, been brought under the operation of the Regulations and Acts in force in the Presidency of Bombay; and whereas it is expedient to exempt such villages from the operation of the Regulations and Acts aforesaid; It is hereby enacted as follows:—

Repeal of enactments. 1 So much of Regulation XXIX of 1827[b] of the Bombay Code, and of Act No. VI of 1842 of the Governor General of India in Council, and of Act No. III of 1863 of the Governor of Bombay in Council, as relates to the said villages, is hereby repealed.

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[a] Repealed, except in the Scheduled Districts, by Act No. XIV of 1874.
[b] See *supra*, p 28

SCHEDULE.

Name of Village.	District.	Law by which each village was brought under the Regulations and Acts of the Presidency of Bombay.
1. The Pant Sachiv's village of Ápti, taraf Hirdas, Mával	Puna ...	Bombay Regulation XXIX of 1827.
2, 3, 4. The Pant Sachiv's villages of Vátár, Bhámburdi and Gunand in that part of the tarafs of Nír Thadi and Sirval which lies north of the Níra river ...		
5. The Daphle's village of Muchandi in pargana Jath	Belgaum ...	Act VI of 1842.
6. The Sánglíkar's village of Dorli in karyát Sávarda	Sáttára ...	Bombay Act III of 1863.
7. The Sánglíkar's village of Borgaon in karyát Digráj		
8. The Mirajkur's village of Dupat Borgaon in karyát Dudgaon		
9. The village of Sangam Máhuli, taraf Vandan, belonging to the Pant Pratinidhi		
10. The village of Kinhi, Sammat Koregon, belonging to the Pant Pratinidhi		

ACT No. V of 1868.

Received the Governor General's assent on the 13th of March, 1868.

An Act to enable the Governor of Bombay in Council to delegate to the Commissioner in Sindh certain of the powers of a Local Government.

Power to delegate to Commissioner in Sindh certain powers of Local Government.

1. It shall be lawful for the Governor of Bombay in Council, by a notification published in the *Bombay Government Gazette*, to delegate to the Commissioner in Sindh all or any of the powers conferred on the said Governor in Council, as the Local Government of the Province of Sindh, by any of the Bombay Regulations, or by any Act of the Governor General of India in Council solely applicable to the Presidency of Bombay, or by any Act passed heretofore or hereafter by the Governor of Bombay in Council, or by any of the Acts of the Governor General of India in Council mentioned in the schedule to this Act.

Power to delegate, with consent of Governor General, to Commissioner of Sindh certain powers of Local Government.

2. It shall be lawful for the Governor of Bombay in Council, with the consent of the Governor General of India in Council, to delegate to the Commissioner in Sindh all or any of the powers heretofore or hereafter conferred by any Act of the Governor General of India in Council on the Governor of Bombay in Council as the Local Government of the Province of Sindh.

3. All acts done by the Commissioner in Sindh under the authority of any power so delegated, shall be as valid as if they had been done by the Governor of Bombay in Council. Validation of acts of Commissioner.

SCHEDULE.

Act XXVI of 1850 (to enable improvements to be made in towns).

Act VII of 1854 (for the apprehension within the territories under the Government of the East India Company, of persons charged with the commission of heinous offences beyond the limits of the said territories, and for delivering them up to justice, and to provide for the execution of warrants in places out of the jurisdiction of the authorities issuing them).

Act XXV of 1861 (for simplifying the Procedure of the Courts of Criminal Judicature not established by Royal Charter).

Act VI of 1863 (to consolidate and amend the laws relating to the administration of the Department of Sea-Customs in India).

Act VII of 1865 (to give effect to rules for the management and preservation of Government Forests).

ACT No. XI OF 1869.

Received the Governor General's assent on the 18th of March, 1869.

An Act to make better provision for the collection of Land-customs on certain foreign frontiers of the Presidencies of Fort St. George and Bombay.

1. This Act may be called the "Land Customs (Madras and Bombay) Act, 1869," and extends only to the territories for the time being respectively subject to the Governor of Fort St. George in Council and the Governor of Bombay in Council. Short title. Extent.

2.—[*Repealed by Act No. XIV of 1870.*]

3.—[*Repealed by Act No. XVI of 1874.*]

4. The Local Government may declare, by notification in the official Gazette, that the territory of any Native Chief not subject to the jurisdiction of the Courts and civil authorities of the territories under such Government, shall be deemed for the purposes of this Act to be foreign territory; and may declare goods passing into or out of such territory liable to the duties specified in the law for the time being in force relating to the duties of customs on goods imported and exported by sea; and goods so passing shall thereupon be liable to the duties aforesaid. Duties on frontiers of Native States.

Application of provisions as to duties and goods.

5. So far as regards the territories subject to the Governor of Fort St. George in Council, the unrepealed provisions of the said Act No. VI of 1844, and so far as regards the territories subject to the Governor of Bombay in Council, the unrepealed provisions of the said Act No. XXIX of 1857, relating to the levy of duties and to dutiable goods shall, *mutatis mutandis*, apply to duties levied and goods liable to duty under or by virtue of this Act.

THE BOMBAY COURTS' ACT.

CONTENTS.

Preamble.

PART I.—*Preliminary.*

SECTION.

1. Short title.
   Extent of Act.
2. [*Repealed.*]

PART II.—*Districts and Sadr Stations.*

3. Alteration and creation of districts.
4. Position of sadr station.

PART III.—*District Courts.*

5. District Judges.
6. Situation of District Court.
7. Original jurisdiction of District Judge.
8. His appellate jurisdiction.
9. Control and inspection of Courts.
10. Writs and orders.
    Reports and returns.
11. Seal of District Judge.

PART IV.—*Joint Judges.*

12. Power to appoint Joint Judges.
13. Enactments applied to Joint Judge.
    Joint Judge's seal.

PART V.—*Assistant Judges.*

14. Power to appoint Assistant Judges.

SECTION.

15. Situation of Assistant Judge's Court.
16. Original jurisdiction of Assistant Judge.
17. Appellate jurisdiction of Assistant Judge.
18. Continuance of Assistant Judge's appellate jurisdiction.
19. Power to invest Assistant Judge with powers of District Judge.
20. Assistant Judge to use seal of District Judge.

PART VI.—*Subordinate Judges.*

21. Number of subordinate civil Courts.
22. Appointment of Subordinate Judges.
23. Situation of subordinate Courts.
24. Classes of Subordinate Judges.
Jurisdiction of Subordinate Judge of first class.
Jurisdiction of Subordinate Judge of second class.
25. Special jurisdiction of Subordinate Judge of first class.
26. Appeals from his decision.
27. Appellate jurisdiction of Subordinate Judge of first class.
28. Power to invest Subordinate Judges with small cause powers.
29. Seal of Subordinate Judge.
30. } [*Repealed.*]
31. }
32. Reference of Government-suits.

Removal or Suspension.

33. Commission of enquiry into alleged misconduct.
34. Suspension of Subordinate Judges by High Court or by District Judge.
Saving of power of Government to suspend or dismiss.

PART VII.—*Temporary Vacancies.*

35. Temporary vacancy of office of District Judge.
36. Delegation of powers of District Judge.
37. Temporary vacancy of office of Subordinate Judge.

PART VIII.—*Ministerial Officers.*

38. Appointment, &c., of ministerial officers.
39. Duties of ministerial officers.
40. Power to appoint clerks of the Courts.

PART IX.—*Miscellaneous.*

41. Rules for keeping proceedings.
42. Fees for process.
43. Sittings of Courts.
Vacation.

ACT No. XIV of 1869.

Received the Governor General's assent on the 19th of March, 1869.

An Act to consolidate and amend the law relating to the district and subordinate civil Courts in the Presidency of Bombay.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the district and other subordinate civil Courts in the Presidency of Bombay; It is hereby enacted as follows:—

PART I.—*Preliminary.*

Short title. Extent.

1. This Act may be called "The Bombay Civil Courts' Act, 1869," and extends only to the territories (other than Sindh) under the government of the Governor of Bombay in Council in which the Code of Civil Procedure is now in force.

But the Governor of Bombay in Council may, by notification in the Government Gazette, extend this Act to any other of the territories under such Government in which the said Code is not in force, or to Sindh.

2.—[*Repealed by Act No. XIV of 1870*].

PART II.—*Districts and Sadr Stations.*

Alteration and creation of districts.

3. The Governor of Bombay in Council may from time to time, by notification in the Government Gazette, alter the limits of existing zilas (which shall hereafter be called districts) and create new districts for the purposes of this Act.

Position of sadr station.

4. The Governor of Bombay in Council may also from time to time, by notification in the Government Gazette, alter the position of the sadr station in any district, and fix the position of the sadr station in any new district.

PART III.—*District Courts.*

District Judges.

5. There shall be in each district a District Court presided over by a Judge to be called the District Judge. He shall be appointed by the Governor of Bombay in Council by whose authority only he shall be liable to be suspended or removed from his appointment.

Situation of District Court.

6. The District Judge shall ordinarily hold the District Court at the sadr station in his district, but may, with the previous sanction of the High Court, hold it elsewhere within the district.

Original jurisdiction of District Court.

7. The District Court shall be the principal Court of original civil jurisdiction in the district, within the meaning of the Code of Civil Procedure.

His appellate jurisdiction.

8. Except as provided in sections 16, 17 and 26, the District Court shall be the Court of Appeal from all decrees and orders passed by the subordinate Courts from which an appeal lies under any law for the time being in force.

Control and inspection of Courts.

9. The District Judge shall have general control over all the civil Courts and their establishments within the district, and it shall be his duty to inspect, or to cause one of his assistants to inspect, the proceedings of all the Courts subordinate to him, and to give such directions with respect to matters not provided for by law as he may think necessary.

The District Judge shall also refer to the High Court all such matters as appear to him to require that a rule of that Court should be made thereon.

Writs and orders.

10. The District Judge shall obey all writs, orders or processes issued to him by the High Court, and shall make such returns or reports thereto under his signature and the seal of the Court as the exigencies of the case require.

Reports and returns.

He shall further furnish such reports and returns and copies of proceedings as may be called for by the High Court or the Governor of Bombay in Council.

Seal of District Judge.

11. The District Judge shall use a circular seal, two inches in diameter, which shall bear thereon the Royal Arms with the following inscription in English and the principal language of the district—"District Court of ."

PART IV.—*Joint Judges.*

Power to appoint Joint Judges.

12. The Governor of Bombay in Council may, with the previous sanction of the Governor General of India in Council, appoint in any district a Joint Judge who shall be invested with co-extensive powers and a concurrent jurisdiction with the District Judge, except that he shall not keep a file of civil suits and shall transact such civil business only as he may receive from the District Judge, or as may have been referred to the Joint Judge by order of the High Court.

When the appointment of a Joint Judge shall have been sanctioned by the Governor General of India in Council, the Governor of Bombay in Council may, so long as such sanction continues in force, appoint a successor to such Joint Judge in case his office becomes vacant, or transfer such Joint Judge from one district to another; and in such other district the Joint Judge so transferred shall have the same powers as he had in the former district.

Enactments applied to Joint Judge. Joint Judge's seal.

13. All Regulations and Acts now or hereafter in force and applying to a District Judge shall be deemed to apply also to the Joint Judge; and the seal of the Joint Judge shall be the same as is used by the District Judge.

PART V —*Assistant Judges*

Power to appoint Assistant Judges

14 The Governor of Bombay in Council, under the general control of the Governor General of India in Council, may appoint one or more assistants to the District Judge, and may suspend or remove from his appointment any assistant so appointed

Situation of Assistant Judge's Court

15 An Assistant Judge shall ordinarily hold his Court at the same place as the District Judge, but he may hold his Court elsewhere within the district, whenever the District Judge shall, with the previous sanction of the High Court, direct him so to do

Original jurisdiction of Assistant Judge

16 The District Judge may refer to any Assistant Judge subordinate to him original suits of which the subject-matter does not amount to ten thousand rupees in amount or value, and miscellaneous applications not being of the nature of appeals

The Assistant Judge shall have jurisdiction to try such suits and to dispose of such applications

Where the Assistant Judge's decrees and orders in such cases are appealable, the appeal shall lie to the District Judge or to the High Court according as the amount or value of the subject-matter does not exceed or exceeds five thousand rupees.

The Assistant Judge shall, when directed by the District Judge so to do, also take evidence on applications for certificates under Bombay Regulation VIII of 1827[a] (*to provide for the formal recognition of heirs, executors and administrators and for the appointment of administrators and managers of property by the Courts*), Act No XXVII of 1860[b] (*for facilitating the collection of debts on successions and for the security of parties paying debts to the representatives of deceased persons*), and Act No XX of 1864[c] (*for making better provision for the care of the persons and property of minors in the Presidency of Bombay*), and shall forward it with his opinion thereon for the final orders of the District Judge

Appellate jurisdiction of Assistant Judge

17 The Governor of Bombay in Council may, by notification in the Government Gazette, empower any Assistant Judge to try such appeals from the decrees and orders of the subordinate Courts as would lie to the District Judge and as may be referred by him to the Assistant Judge.

Decrees and orders passed under this section by an Assistant Judge shall have the same force and shall be subject to the same rules as regards procedure and appeals as decrees and orders passed by the District Judge

Continuance of Assistant Judge's appel-

18 A person filling the office of Assistant Judge, on whom the power of

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[a] See *supra* p 7 [b] See General Acts, vol I, p 352 [c] See *supra* p 100

hearing appeals has once been conferred under section 17, shall continue to have this power so long and so often as he may fill the office of Assistant Judge, without reference to the district in which he may be employed provided that the Governor of Bombay in Council may, by notification in the Government Gazette, at any time withdraw such power. — Appellate jurisdiction.

19. The Governor of Bombay in Council may, by notification in the Government Gazette, invest an Assistant Judge with all or any of the powers of a District Judge within a particular part of a district, and may, by like notification, from time to time determine and alter the limits of such part. — Power to invest Assistant Judge with powers of District Judge.

The jurisdiction of an Assistant Judge so invested shall *pro tanto* exclude the jurisdiction of the District Judge from within the said limits.

Every Assistant Judge so invested shall ordinarily hold his Court at such place within the local limits of his jurisdiction as may be determined by the Governor of Bombay in Council, and may, with the previous sanction of the High Court, hold it at any other place within such limits.

20. Every Assistant Judge shall use the seal of the District Judge to whom he is Assistant. — Assistant Judge to use seal of District Judge.

Part VI.—*Subordinate Judges.*

21. There shall be in each district so many civil Courts subordinate to the District Court as the Governor of Bombay in Council, acting under the general control of the Governor General of India in Council, shall from time to time direct. — Number of subordinate civil Courts.

22. The Judges of such subordinate Courts shall be appointed by the Governor of Bombay in Council, and shall be called Subordinate Judges. — Appointment of Subordinate Judges.

No person shall be appointed a Subordinate Judge unless he be a subject of the Queen who has practised five years as an advocate of a High Court in India or as a vakíl in the High Court of Judicature in Bombay, or who has qualified for the duties of a Subordinate Judge according to such tests as may for the time being be prescribed by such High Court, or who has taken the degree of Bachelor of Laws in the University of Bombay.

The tests so prescribed by the High Court shall be notified in the Government Gazette.

23. The Subordinate Judges shall hold their Courts at such place or places as the Governor of Bombay in Council may from time to time appoint within the local limits of their respective jurisdictions. — Situation of subordinate Courts.

Wherever more than one such place is appointed, the District Judge shall, subject to the control of the High Court, fix the days on which the Subordinate Judge shall hold his Court at each of such places, and the Subordinate Judge shall cause such days to be duly notified throughout the local limits of his jurisdiction.

The same person may be the Judge of more than one subordinate Court; and in such cases the District Judge shall, subject to the control of the High Court, prescribe rules for regulating the time during which the Subordinate Judge shall sit in each Court.

The Judge of any subordinate Court may, with the previous sanction of the High Court, be deputed by the District Judge to the Court of another Subordinate Judge for the purpose of assisting him in the disposal of the suits on his file.

Classes of Subordinate Judges.

24. The Subordinate Judges shall be of two classes.

Jurisdiction of Subordinate Judge of first class.

The jurisdiction of a Subordinate Judge of the first class extends to all original suits and proceedings of a civil nature.

Jurisdiction of Subordinate Judge of second class.

The jurisdiction of a Subordinate Judge of the second class extends to all original suits and proceedings of a civil nature wherein the subject-matter does not exceed in amount or value five thousand rupees.

Special jurisdiction of Subordinate Judge of first class.

25. A Subordinate Judge of the first class, in addition to his ordinary jurisdiction, shall exercise a special jurisdiction in respect of such suits and proceedings of a civil nature wherein the subject-matter exceeds five thousand rupees in amount or value as may arise within the local jurisdictions of the Courts in the district presided over by Subordinate Judges of the second class.

In districts to which more than one Subordinate Judge of the first class have been appointed, the District Judge, subject to the orders of the High Court, shall assign to each the local limits within which his said special jurisdiction is to be exercised.

Appeals from his decision.

26. In all suits decided by a Subordinate Judge of the first class in the exercise of his ordinary and special original jurisdiction of which the amount or value of the subject-matter exceeds five thousand rupees, the appeal from his decision shall be direct to the High Court.

Appellate jurisdiction of Subordinate Judge of first class.

27. The Governor of Bombay in Council may invest any Subordinate Judge of the first class with power to hear appeals from such decrees and orders of subordinate Courts as may be referred to him by the Judge of the district.

Decrees and orders so passed in appeal by a Subordinate Judge of the first class shall have the same force as if passed by a District Judge.

The Governor of Bombay in Council may, whenever he thinks fit, withdraw such jurisdiction from any Subordinate Judge so invested.

Power to invest Subordinate Judges with

28. The Governor of Bombay in Council may invest, within such local limits as he shall from time to time appoint, any Subordinate Judge of the first class with the jurisdiction of a Judge of a Court of Small Causes, for the

trial of suits cognizable by such Courts up to the amount of five hundred rupees, and any Subordinate Judge of the second class with the same jurisdiction up to the amount of fifty rupees. small cause powers.

The Governor of Bombay in Council may, whenever he thinks fit, withdraw such jurisdiction from any Subordinate Judge so invested.

29. Each Subordinate Judge shall use a seal one inch and a half in diameter, bearing the Royal Crown with the following inscription in English and the principal language of the district:—"Subordinate Judge of ." Seal of Subordinate Judge.

30, 31.—[*Repealed by Act No. XII of 1876.*]

32. No Subordinate Judge or Court of Small Causes shall receive or register a suit in which the Government or any officer of Government in his official capacity is a party, but in every such case such Judge or Court shall refer the plaintiff to the District Judge, in whose Court alone (subject to the provisions of section 19) such suit shall be instituted.[a] Reference of Government-suits.

Removal or Suspension.

33. Whenever the High Court is of opinion that there are good grounds for making a formal and public enquiry into the truth of any imputation of misconduct by any Subordinate Judge, the High Court may appoint a Commissioner or Commissioners for the purpose of holding such an enquiry, and on the receipt of his or their report may order that the Subordinate Judge be removed or suspended from office, or reduced to a lower class. Commission of enquiry into alleged misconduct.

The provisions of Act No. XXXVII of 1850[b] (*for regulating enquiries into the behaviour of public servants*) shall apply to enquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court.

34. The High Court may suspend any Subordinate Judge from office pending the result of an enquiry into his behaviour under this section. Suspension of Subordinate Judges by High Court, or by District Judge.

Any District Judge may, whenever he sees urgent necessity for so doing, suspend from office any Subordinate Judge under his control. But whenever the District Judge suspends any such Subordinate Judge, he shall forthwith report the case for the orders of the High Court.

Nothing in this section or in section 33 shall be held to interfere with the right of Government to suspend, or move from office, any Subordinate Judge at their discretion. Saving of power of Government to suspend or dismiss.

PART VII.—*Temporary Vacancies.*

35. In the event of the death of the District Judge or of his being pre- Temporary

[a] The section substituted by Act No X of 1876, section 15, is printed here.
[b] See General Acts, vol. I, p. 97.

Vacancy of office of District Judge.

vented from performing his duties by illness or other casualty, or of his absence from his district on leave, the first in rank of the Assistant Judges in the district, or in the absence from the district of an Assistant Judge the first in rank of the Subordinate Judges, shall assume charge of the District Court without interruption to his ordinary jurisdiction, and while so in charge shall perform the duties of a District Judge with respect to the filing of suits and appeals, receiving pleadings, execution of processes, return of writs and the like, and shall be designated Assistant Judge or Subordinate Judge, as the case may be, in charge of the district, and shall continue in such charge until the office of District Judge may be resumed or assumed by an officer duly appointed thereto.

Delegation of powers of District Judge.

36. Any District Judge leaving the sadr station and proceeding on duty to any place within his district, may delegate to an Assistant Judge, or in the absence of an Assistant Judge to a Subordinate Judge at the sadr station, the power of performing such of the duties enumerated in section 35 as may be emergent; and such officer shall be designated Assistant or Subordinate Judge, as the case may be, in charge of the sadr station.

Temporary vacancy of office of Subordinate Judge.

37. In the event of the death, suspension or temporary absence of any Subordinate Judge, the District Judge may empower the Judge of any subordinate Court of the same district to perform the duties of the Judge of the vacated subordinate Court, either at the place of such Court or of his own Court; but in every such case the registers and records of the two Courts shall be kept distinct.

PART VIII.—*Ministerial Officers.*

Appointment, &c., of ministerial officers.

38. All ministerial officers of the civil Courts in each district shall be appointed, and may be fined, suspended or dismissed, by the District Judge, subject to such rules as the High Court may from time to time prescribe:

Provided that the Judge of every subordinate Court may, subject to the like rules, appoint the ministerial officers of such Court, whose salaries do not exceed rupees ten per mensem, and may by order fine, suspend or dismiss any ministerial officer of such Court who is guilty of any misconduct or neglect in the performance of the duties of his office.

Every such order shall be subject to appeal to the District Judge; and the rules for the time being applicable to appeals to the Court of Session from orders of the criminal Courts subordinate thereto, shall apply to all appeals under this section.

Nothing in this section shall exempt the offender from any penal or other consequences to which he may be liable under any other law in force for the time being.

39. The duties of the said ministerial officers shall be regulated by such rules as the High Court may from time to time prescribe. Duties of ministerial officers.

40. The Governor of Bombay in Council may, under the general control of the Governor General of India in Council, appoint to any civil Court under this Act a clerk of the Court, who, in addition to such duties as may from time to time be prescribed by the High Court, may receive and register plaints, and shall refer such as he may consider should be refused for the orders of the Judge of the Court, and may sign all processes, and authenticate copies of papers. Power to appoint clerks of the Courts.

PART IX.—*Miscellaneous.*

41. The proceedings of each civil Court shall be kept and recorded according to such rules as the High Court may from time to time prescribe. The High Court shall also lay down rules under which copies of papers may be granted. Rules for keeping proceedings.

42. The High Court shall from time to time, with the sanction of the Governor of Bombay in Council, prescribe and regulate the fees to be taken for any process issued by any Court the constitution of which is declared by this Act, or by any officer of such Court. Fees for process.

Tables of the fees so prescribed shall be published in the Government Gazette.

43. The district and subordinate Courts shall sit from day to day, except on Sundays, New Year's Day, Good Friday, Christmas Day and Her Majesty's birth-day, and such other days as may be sanctioned for each or every district by the High Court. Sittings of Courts.

The High Court may also permit the civil Courts under its control to adjourn for a period or periods not exceeding in the whole six weeks in each year. Vacation.

ACT No. V OF 1872.

Received the Governor General's assent on the 28th of March, 1872.

An Act to remove doubts as to the jurisdiction of the High Court of Bombay over the Province of Sindh.

WHEREAS it is expedient to remove doubts which have arisen as to the jurisdiction of the High Court of Bombay over the Province of Sindh; It is hereby enacted as follows:— Preamble.

1. The High Court of Bombay has not, and shall be deemed never to have had, jurisdiction over the Province of Sindh. Bar of jurisdiction in Sindh of Bombay High Court.

Saving of Act XXIV of 1867.

2. Nothing herein contained shall be deemed to affect the Administrator General's Act, 1867.

Saving of probates and administrations.

3. Nothing herein contained shall be deemed to invalidate the grant of any probate or letters of administration heretofore or hereafter made by the High Court of Judicature at Bombay, or to affect the rights, powers or duties of any executor or administrator under, or by virtue of, any such probate or letters.

Saving of High Court's criminal jurisdiction.

4. Nothing herein contained shall be deemed to affect the criminal jurisdiction of the said High Court so far as regards European British subjects of Her Majesty.[a]

ACT No. XX OF 1872.

Received the Governor General's assent on the 5th of September, 1872.

An Act to amend Act No. V of 1872.

Preamble.

WHEREAS it is expedient to amend Act No. V of 1872 (*to remove doubts as to the jurisdiction of the High Court of Bombay over the Province of Sindh*); It is hereby enacted as follows:—

Sections added to Act V of 1872.

1. The said Act shall be construed as if the following sections were added thereto:—

2, 3, 4.—[See *supra* in this page.]

THE BOMBAY REVENUE JURISDICTION ACT, 1876.

CONTENTS.

Preamble.

SECTION.

1. Short title.
   Commencement.
   Extent.
2. Repeal of enactments.
3. Interpretation-clause.
4. Bar of certain suits.
   Proviso.
5. Saving of certain suits.
6. Bar of certain suits against Revenue-officers.
7. Punishment or prosecution of Revenue-officers not a bar to civil remedies.

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[a] Sections 2, 3 and 4 were added to this Act by Act No. XX of 1872.

SECTION.

8. Answer of officer in suit for act done under order.
9. Appeals from proceedings of Revenue-officers.
10. Power to Local Government to call for record.
11. Suits not to be entertained unless plaintiff has exhausted right of appeal.
12. Power of Government to refer questions for decision of High Court.
13. Power of Civil Judge to refer questions of jurisdiction to High Court.
14. Composition of Bench.
15. Amendment of section 32, Act XIV of 1869.
16. Privileges of Government in suits defended by it.
17. Revival of Bombay Regulation XVII of 1827, section 13.
Operation of same Regulation in sites of villages and towns.
Recovery of certain advances made by Local Government.

SCHEDULE I. Enactments repealed.

SCHEDULE II. Districts referred to in section 5.

ACT No. X OF 1876.

Received the Governor General's assent on the 28th of March, 1876.

An Act to limit the jurisdiction of the Civil Courts throughout the Bombay Presidency in matters relating to the Land-revenue, and for other purposes.

Preamble.

WHEREAS in certain parts of the Presidency of Bombay, the jurisdiction of the civil Courts in matters connected with the land-revenue is more extensive than it is in the rest of the said Presidency;

and whereas it is expedient that the jurisdiction of all the civil Courts in the said Presidency should be limited in manner hereinafter appearing;

and whereas it is also expedient to amend the Bombay Civil Courts Act, section 32, and to revive certain provisions of the thirteenth section of Regulation XVII of 1827 [a] of the Bombay Code, which was repealed by the Land Improvement Act, 1871,[b] and to provide for the recovery by the Local Government of advances made for purposes other than those specified in section 3 of the Land Improvement Act, 1871;

It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Bombay Revenue Jurisdiction Act, 1876:"

Commencement.

So much of section 4 as relates to claims to set aside, on the ground of irregularity, mistake or any other ground except fraud, sales for arrears of

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[a] Repealed by Bom. Act No. V of 1879. [b] See General Acts, vol. II, p. 1412.

land-revenue, shall come into force on such day as the Governor General in Council directs in that behalf by notification in the *Gazette of India*. The rest of this Act shall come into force on the passing thereof:

Extent. and it shall extend to all the territories for the time being under the government of the Governor of Bombay in Council, but not so as to affect—

(*a*) any suit regarding the assessment of revenue on land situate in the collectorate of Bombay, or the collection of such revenue;

(*b*) any of the provisions of Bombay Acts V of 1862[a] and VI of 1862,[b] or of Act XV of 1871,[c] or of Act XXIII of 1871;[d]

(*c*) any suit instituted before the passing of this Act.

Repeal of enactments 2. The enactments mentioned in the schedule[e] hereto annexed are repealed to the extent specified in the third column thereof.

Interpretation-clause 3. In this Act, unless there be something repugnant in the subject or context,—

"Land." "land" includes the sites of villages, towns and cities: it also includes trees, growing crops and grass, fruit upon, and juice in, trees, rights-of-way, ferries, fisheries and all other benefits to arise out of land, and things attached to the earth or permanently fastened to things attached to the earth:

"Land-revenue." "land-revenue" means all sums and payments, in money or in kind, received or claimable by or on behalf of Government from any person on account of any land held by or vested in him, and any cess or rate authorized by Government under the provisions of any law for the time being in force:

"Revenue-officer." "Revenue-officer" means any officer employed in or about the business of the land-revenue, or of the surveys, assessment, accounts or records connected therewith.

Bar of certain suits. 4. Subject to the exceptions hereinafter appearing, no civil Court shall exercise jurisdiction as to any of the following matters:

(*a*) claims against Government relating to any property appertaining to the office of any hereditary officer appointed or recognized under Bombay Act No. III of 1874,[f] or any other law for the time being in force, or of any other village-officer or servant, or

claims to perform the duties of any such officer or servant, or in respect of any injury caused by exclusion from such office or service, or

suits to set aside or avoid any order under the same Act or any other law relating to the same subject for the time being in force passed by Government or any officer duly authorized in that behalf, or

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[a] See *infra*, p 170.
[b] See *infra*, p 172.
[c] Repealed by Act No. XIV of 1877.
[d] See General Acts, vol. II, p. 1404.
[e] The first schedule.
[f] See *infra*.

claims against Government relating to lands held under treaty, or to lands granted or held as saranjám, or on other political tenure, or to lands declared by Government or any officer duly authorized in that behalf to be held for service;

(*b*) objections—

to the amount or incidence of any assessment of land-revenue authorized by Government, or

to the mode of assessment, or to the principle on which such assessment is fixed, or

to the validity or effect of the notification of survey or settlement, or of any notification determining the period of settlement;

(*c*) claims connected with or arising out of any proceedings for the realization of land-revenue or the rendering of assistance by Government or any officer duly authorized in that behalf to superior holders or occupants for the recovery of their dues from inferior holders or tenants;

claims to set aside on account of irregularity, mistake or any other ground except fraud, sales for arrears of land-revenue;

(*d*) claims against Government—

(1) to be entered in the revenue-survey or settlement-records or village-papers as liable for the land-revenue, or as superior holder, inferior holder, occupant or tenant, or

(2) to have any entry made in any record of a revenue-survey or settlement, or

(3) to have any such entry either omitted or amended;

(*e*) the distribution of land or allotment of land-revenue on partition of any estate under Bombay Act IV of 1868,[a] or any other law for the time being in force;

(*f*) claims against Government—

to hold land wholly or partially free from payment of land-revenue, or

to receive payments charged on or payable out of the land-revenue, or to set aside any cess or rate authorized by Government under the provisions of any law for the time being in force, or

respecting the occupation of waste or vacant land belonging to Government;

(*g*) claims regarding boundaries fixed under Bombay Act No. I of 1865,[b] or any other law for the time being in force, or to set aside any order passed by a competent officer under any such law with regard to boundary-marks:

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[a] Repealed by Bombay Act No V of 1879.

[b] Repealed, except sections 37, 38, by Bombay Act No. V of 1879.

Proviso. Provided that if any person claim to hold land wholly or partially exempt from payment of land-revenue under

(*h*) any enactment for the time being in force expressly creating an exemption not before existing in favour of an individual or of any class of persons, or expressly confirming such an exemption on the ground of its being shown in a public record, or of its having existed for a specified term of years, or

(*i*) an instrument or sanad given by or by order of the Governor of Bombay in Council under Bombay Act No. II of 1863,[a] section 1, clause first, or Bombay Act No. VII of 1863,[b] section 2, clause first, or

(*j*) any other written grant by the British Government expressly creating or confirming such exemption, or

(*k*) a judgment by a Court of law, or an adjudication duly passed by a competent officer under Bombay Regulation XVII of 1827,[c] chapter X, or under Act No. XI of 1852,[d] which declares the particular property in dispute to be exempt;

such claim shall be cognizable in the civil Courts.

Illustrations to (*h*).

(1). It is enacted that, in the event of the proprietary right in lands, the property of Government, being transferred to individuals, they shall be permitted to hold the lands for ever at the assessment at which they are transferred. The proprietary right in certain lands is transferred to A at an assessment of Rs. 100. An exemption from higher assessment not before existing is expressly created in favour of A by enactment, and he may seek relief in the civil Court against over-assessment.

(2). It is enacted that, when a specific limit to assessment has been established and preserved, the assessment shall not exceed such specific limit. A is the owner of land worth Rs. 100 for assessment. He claims to be assessed at Rs. 50 only on the strength of a course of dealing with him and his predecessors under which his land has not been more highly assessed. There is no exemption not before existing created by enactment, and A's claim is not cognizable in a civil Court.

(3). It is enacted that land-revenue shall not be leviable from any land held and entered in the land-registers as exempt. A claims to hold certain land as exempt on the ground that it has been so held by him, and is so entered in the land-register. This is an exemption expressly confirmed by enactment on the ground of its being shown in a public record, and A's claim is cognizable in a civil Court.

(4). It is enacted that the Collector shall confirm existing exemptions of all lands shown in certain maps to be exempt. A claims exemption alleging that his land is shown in the maps to be exempt. A's claim is cognizable in a civil Court.

(5). It is enacted that assessment shall be fixed with reference to certain considerations, and not with reference to others. This is not an enactment creating an exemption in favour

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[a] See *infra*, p. 180.
[b] See *infra*, p. 220.
[c] Repealed by Bombay Act No. V of 1870.
[d] See *supra*, p. 62.

of any individual or class, and no objection to an assessment under such an enactment is cognizable in a civil Court.

Saving of certain suits.

5. Nothing in section 4 shall be held to prevent the civil Courts from entertaining the following suits :—

(*a*) suits against Government to contest the amount claimed, or paid under protest, or recovered, as land-revenue, on the ground that such amount is in excess of the amount authorized in that behalf by Government, or that such amount had, previous to such claim, payment or recovery, been satisfied, in whole or in part, or that the plaintiff, or the person whom he represents, is not the person liable for such amount;

(*b*) suits between private parties for the purpose of establishing any private right, although it may be affected by any entry in any record of a revenue-survey or settlement or in any village-papers;

(*c*) suits between superior holders or occupants and inferior holders or tenants regarding the dues claimed or recovered from the latter;

and nothing in section 4, clause (*g*), shall be held to prevent the civil Courts from entertaining suits, other than suits against Government, for possession of any land being a whole survey-number or a recognized share of a survey-number;

and nothing in section 4 shall be held to prevent the civil Courts in the districts mentioned in the second schedule hereto annexed from exercising such jurisdiction as, according to the terms of any law in force on the twenty-eighth day of March, 1876, they could have exercised over claims against Government—

(*a*) relating to any property appertaining to the office of any hereditary officer appointed or recognized under Bombay Act No. III of 1874,[a] or any other law for the time being in force, or of any other village-officer or servant;

(*b*) to hold land wholly or partially free from payment of land-revenue:

(*c*) to receive payments charged on, or payable out of, the land-revenue.[b]

Bar of certain suits against Revenue-officers.

6. Revenue-officers shall not be liable to be sued for damages in any civil Court for any act *bonâ fide* done or ordered to be done by them as such in pursuance of the provisions of any law for the time being in force.

If any Revenue-officer absconds or does not attend when called on by his official superior, and if the Collector of the district proceeds against him or his sureties for public money, papers or property according to the provisions of any law for the time being in force, such Collector shall not be liable to pay damages or costs in any suit brought against him by such officer or sureties, although it appears that a part only, or no part whatever, of the sum

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[a] See *infra*.

[b] Part of this section was added by Act No XVI of 1877.

demanded was due from the officer so absconding or failing to attend, or that he was not in possession of the papers or property demanded of him.

Punishment or prosecution of Revenue-officers no bar to civil remedies.

7. Nothing in any law for the time being in force which authorizes the punishment departmentally of any Revenue-officer for any offence or breach of duty, or which sanctions his prosecution criminally for such offence or breach, shall be held to bar any remedy which may be had in the civil Court against such officer.

Answer of officer in suit for act done under order.

8. If any act done by a Revenue-officer under orders from superior authority subsequently forms the ground of a civil suit against him, he shall appear and answer in such suit as if the act had been done solely by his own authority.

Appeals from proceedings of Revenue-officers.

9. In every case in which but for the passing of this Act any act or omission of a Revenue-officer would have been open to question in a civil Court, any party aggrieved by such act or omission may, if no other appeal is given by any law for the time being in force, present an appeal, within two months from the date of such act or omission, to the immediate official superior of such officer; and if such official superior be of a grade inferior to that of a Commissioner of Revenue, then the party aggrieved by his decision on appeal may present a further appeal against such decision to the Commissioner of Revenue or such other officer as the Local Government appoints in this behalf.

Such further appeal must be presented within one month from the date of the decision complained of.

Any appeal under this section may be admitted after the period of limitation prescribed therefor when the appellant satisfies the officer appealed to that he had sufficient cause for not presenting the appeal within such period.

In computing any period of limitation so prescribed, the day on which the act, omission or decision complained of took place or was pronounced shall be excluded.

Power to Local Government to call for record.

10. The Local Government may call for and examine the record of the proceedings on appeal under section 9 of any officer for the purpose of satisfying itself as to the legality or propriety of any order passed by him, and may reverse or modify his order, or, if it think fit, may direct that additional evidence be taken, or that the appeal be reheard.

Suits not to be entertained unless plaintiff has exhausted right of appeal.

11. No civil Court shall entertain any suit against Government on account of any act or omission of any Revenue-officer unless the plaintiff first proves that, previously to bringing his suit, he has presented all such appeals allowed by the law for the time being in force as, within the period of limitation allowed for bringing such suit, it was possible to present.

Power of Government to refer questions for

12. If in the trial or investigation of any suit, claim or objection which, but for the passing of this Act, might have been tried or investigated by a civil Court, there arises any question on which the Governor General in

Council or the Local Government desires to have the decision of the High Court, the Governor General in Council or the Local Government, as the case may be, may cause a statement of the question to be prepared, and may refer such question for the decision of the High Court of Judicature at Bombay. decision of High Court.

The said High Court shall fix an early day for the hearing of the question referred, and cause notice of such day to be placed in the Court-house.

The parties to the case may appear and be heard in the High Court in person or by their advocates or pleaders.

The High Court, when it has heard and considered the case, shall send a copy of its decision, with the reasons therefor, under the seal of the Court, to the Government by which the reference was made, and, subject to any appeal which may be presented to Her Majesty in Council, the case shall be disposed of conformably to such decision.

If the High Court considers that any such statement is imperfectly framed, the High Court may return it for amendment.

The costs (if any) consequent on any such reference shall be dealt with as the High Court in each case directs.

13. If in any suit instituted, or in any appeal presented, in a civil Court, the Judge doubts whether he is precluded by this Act from taking cognizance of the suit or appeal, he may refer the matter to the High Court. Power of civil Judge to refer questions of jurisdiction to High Court.

The High Court may order the Judge making the reference either to proceed with the case or to return the plaint.

The order of the High Court on any such reference shall be subject to appeal to Her Majesty in Council, and, save as aforesaid, shall be final.

14. Every reference under section 12 or section 13 shall be heard by a Bench consisting of such number of Judges, not less than three, as the Chief Justice from time to time directs. Composition of Bench.

15. For section 32 of the Bombay Civil Courts Act, No. XIV of 1869, the following shall be substituted (namely) : Amendment of section 32, Act XIV of 1869.

[See *supra*, p. 125.]

16. Whenever any suit is brought in any District Court against Government, Privileges of Government in suits defended by it.

or against any Revenue-officer, and the Local Government undertakes the defence thereof,

it shall be lawful for the Local Government, by certificate signed by a secretary thereto, to require—

(*a*) that such suit shall be tried by the District Judge himself, and shall not be transferred for trial to an Assistant Judge ; and

(*b*) that the trial of any such suit shall have precedence over the trial of any other suit or other civil proceeding then pending in such Court ;

and the Court shall give effect to every such requirement

The privilege conferred on the Local Government by the clause (5) of this section shall, *mutatis mutandis*, apply to any appeal or special appeal against any decree in any such suit as is described in this section

Revival of Bombay Regulation XVII of 1827, section 5.

17 Notwithstanding any repeal effected by the Land Improvement Act, 1871,[a] arrears of land-revenue of former years shall be recoverable by the Collector in the same way as current land-revenue, except that the preference given to demands for current land-revenue, as specified in section 5 of Bombay Regulation XVII of 1827,[b] shall not extend to demands on account of the arrears for former years

Operation of same Regulation in sites of villages and towns

So much of the said Regulation as is for the time being in force in any part of the territories to which this Act extends shall be deemed to be in force and to have always been in force in the sites of all villages, towns and cities in such part

Recovery of certain advances made by Local Government

All advances made by the Local Government for purposes other than those specified in the Land Improvement Act, 1871, section 3, may be recovered from the persons to whom such advances are made as if they were arrears of land-revenue

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SCHEDULE[c]

(*See section 2*)

ACTS OF THE GOVERNOR GENERAL IN COUNCIL

Number and year	Title or abbreviated title	Extent of repeal
XVI of 1838	Suits, Bombay	In section 1, the words "or of the watans of hereditary district or village-officers"
X of 1848	An Act for annexing the lapsed State of Mandví to the Presidency of Bombay	So much of section 2 as is not repealed
XI of 1852 ...	An Act for the adjudication of titles to certain estates claimed to be wholly or partially rent-free in the Presidency of Bombay.	Section 7.
VIII of 1853	An Act for bringing the lapsed State of Colaba under the laws of the Presidency of Bombay	So much of section 2 as is not repealed

[a] See General Acts, vol. II, p 1412 [b] Repealed by Bom Act No V of 1879
[c] Now read "Schedule I"

ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL.

Number and year.	Title or abbreviated title.	Extent of repeal.
II of 1863 ...	An Act to facilitate the adjustment of unsettled claims to exemption from the payment of land-revenue, &c.	Section 13, from and including the words "it shall not" down to and including the words "is concerned." Section 14.
III of 1863 ...	An Act for bringing under the Regulations and Acts of the Presidency of Bombay the territories of Satára, certain villages and lapsed States in the Collectorate of Sholapoor, &c.	Section 3.
VII of 1863 ...	An Act for the summary settlement of claims to exemption from the payment of Government land-revenue, &c.	Section 2, clause 4. Section 28, from and including the words "it shall not" down to and including the words "the said Act." Section 29.
I of 1865 ...	An Act to provide for the survey, demarcation, assessment and administration of lands held under Government in the districts belonging to the Presidency of Bombay, &c.	The proviso to section 14.
II of 1866 ...	An Act to divest Courts of Revenue of jurisdiction in certain cases, &c.	So much as has not been repealed.
XIV of 1866 ...	An Act to bring the Pargannas of Edulabad and Wurrungaon under the general Regulations and Acts of the Presidency of Bombay,	Section 2.
II of 1871 ...	An Act for imposing duties on the non-agricultural classes, &c.	Section 17, from and including the words "and no suit" to the end.

BOMBAY REGULATIONS.

Number and year.	Title or abbreviated title.	Extent of repeal.
XVI of 1827 ...	A Regulation defining the duties of the Collector, and his powers, &c.	Section 6. Section 11, clause 5. Section 14, clause 4. Section 27, clause 3.
XVII of 1827 ...	A Regulation for the territories subordinate to Bombay, prescribing Rules for the assessment and realization of the land-revenue, &c.	Section 9. Section 16, clause 5.
XXIX of 1827 ...	A Regulation for bringing under the operation of the Regulations the Bombay territories in the Dekkhan and Khándesh.	So much of section 6 as is not repealed.
V of 1830 ...	A Regulation providing for the appointment of a Revenue Commissioner, &c.	Section 1, clause 6, from the words "But if any act" to the end.
VII of 1830 ...	A Regulation for bringing under the operation of the Regulations the territories comprised in the Southern Mahratta Country, &c.	So much of section 2 as makes section 6 of Regulation XXIX of 1827 applicable to the territories comprised in the Southern Mahratta Country.

THE SECOND SCHEDULE.

The district of Ahmadábád.

The district of Kaira, exclusive of the Panch Maháls.

[a]"The district of Broach."

The district of Surat, exclusive of the lapsed State of Mandví, as described in the schedule annexed to Act X of 1848.

The district of Tanna.

The district of Kolába, exclusive of the lapsed State of Kolába mentioned in Act VIII of 1853.

The district of Ratnágiri.

The district of Kanara.

[a] Added by Act No. XVI of 1877.

THE SINDH INCUMBERED ESTATES ACT, 1876.

CONTENTS.

Preamble.

I.—Preliminary.

Section.

1. Short title.
   Commencement.
2. Interpretation-clause.

II.—Of the Application and Preliminary Inquiry.

3 Application for benefit of Act.
4. Order to enquire.
5. Verified statement to be submitted.
   False averments in statement.
6. Report of enquiry and proceedings thereon.

III.—Of the Order of Management.

7. "Order of management" to what it extends.
   Commencement of management.
8. Effect of order of management.
   Stay of pending proceedings, &c.
   Bar of fresh proceedings.
   Debtor incompetent—
   to contract debts,
   to encumber or alienate property under management,
   to grant receipts for rent thereof.
9. Manager to have powers of owner and to receive rents and profits, to have powers of Collector for recovery.
10. Manager to pay therefrom—
    costs of management and repairs,
    Government revenue, &c,
    rent due to superior holder,
    allowance for maintenance of debtor,
    cost of improvements, &c.
    Residue how disposed of.

IV.—Proof of Debts and Scheme for Liquidation.

11. Notice to claimants against debtor.
    Copies of notice to be exhibited.
12. Claim to contain full particulars
    Documents to be given up.
    Entries in books.
    Exclusion of documents not produced.
13. Claim not duly notified to be barred.
    Provision for admission of claims within further period of six months.

SECTION.
14 Determination of debts and liabilities.
15 Power to rank debts and to fix interest.
16 Scheme for liquidation.
Provisions of scheme
17. Proceedings of Commissioner on submission of scheme.
18 Power to relinquish management.

V —OF THE PROCEEDINGS SUBSEQUENT TO SANCTION OF THE LIQUIDATION-SCHEME.

19 Effects of sanctioning scheme.
20 Power to remove mortgagee in possession.
21. Power to inquire into consideration given for leases
22 Power to lease
23. Power to raise money by mortgage or sale.
24 Manager's receipt to be a discharge.
25. Termination of management.
Restoration of owner
26 Death of debtor during management.
27 Mortgages, &c., made by restored jágírdár valid only for his life.

VI —OF APPEAL AND REVISION.

28 Appeal
29 Power to call for proceedings and pass order thereon.

VII —MISCELLANEOUS.

30. Power to make rules.
31. Power to appoint new manager.
32 Managers to be public servants
33 Investigation to be deemed a judicial proceeding
34 Power to summon witnesses and compel production of documents.
35 Bar of suits
36 Saving of jurisdiction of Courts in Sindh in respect of certain suits.

ACT No XIV OF 1876.

Received the Governor General's assent on the 14th of September, 1876.

An Act to relieve from incumbrances the estates of jágírdárs and zamíndárs in Sindh.

Preamble. WHEREAS many jágírdárs and zamíndárs in Sindh are in debt, and their immoveable property is subject to mortgages, charges and liens, and whereas it is expedient to provide for their relief in manner hereinafter appearing, It is hereby enacted as follows —

I.—PRELIMINARY.

Short title. 1. This Act may be called "The Sindh Incumbered Estates Act, 1876."

And it shall come into force on the passing thereof. Commencement.

2. In this Act— Interpretation-clause.

"jágír-land" includes also a share held hereditarily of the revenues of a Government-village, but does not include *siri* or *mamul* or garden-grants: "Jágír-land."

"jágírdár" means a person who, or whose ancestor, was found in possession of jágír-land in Sindh on the seventeenth day of February, 1843, and to whom the said land, or a portion of the same, or other land in lieu thereof, has been continued by the British Government, and to whom, or to whose ancestor, a sanad has been, or hereafter may be, granted confirming such continuance: "Jágírdár."

"zamíndár" means a person holding lands in Sindh on the aggregate of which he has been assessed by the Government, on account of land-revenue for any one of the five revenue years next before the passing of this Act, a sum not less than three hundred rupees: "Zamíndar."

"Commissioner" means the Commissioner in Sindh. "Commissioner."

II.—Of the Application and Preliminary Inquiry.

3. At any time within twelve months after the passing of this Act, any jágírdár or zamíndár, Application for benefit of Act.

or any person who would be sole heir or one of the heirs to such jágírdár or zamíndár if he then died intestate,

may apply, in writing, to the Commissioner, stating that such jágírdár or zamíndár is subject to debts or liabilities, other than debts due, or liabilities incurred, to Government, or that his immoveable property is charged with debts or liabilities other than as aforesaid, and requesting that the provisions of this Act be applied to his case.

When any jágírdár, zamíndár or other person entitled to make an application under this section is a minor, or of unsound mind, or an idiot, such application may be made on his behalf by the guardian or other legal curator of his person, or by the legally constituted administrator or manager of his estate.

4. When any such application is made by or on behalf of a jagírdár, or the person who would be his sole heir if he then died, the Commissioner shall direct an enquiry to be made by such officer as he thinks fit into the nature and amount of such debts and liabilities and the sufficiency of the debtor's property, whether moveable or immoveable, to discharge the same. Order to enquire.

When such an application is made in any other case, it shall be in the discretion of the Commissioner, subject to any general rules which may from time to time be made by the Governor of Bombay in Council in this behalf, either to reject such application or to direct an enquiry to be made as aforesaid.

5. When an enquiry has been directed under section 4, the applicant shall, Verified

statement to be submitted

within a period to be fixed by the Commissioner, submit to the officer appointed to make such enquiry a statement duly verified by the said applicant, or by some other competent person, in the manner required by law for the verification of plaints, and containing, so far as may be practicable, such details as to the debts and liabilities, and as to the sufficiency of the debtor's property, whether moveable or immoveable, to meet the same, as the Commissioner, or the said officer subject to his control, may require.

False averments in statement.

If any such statement contains any averment which the person making the verification knows or believes to be false, or does not know or believe to be true, such person shall be deemed to have intentionally given false evidence within the meaning of the Indian Penal Code.

Report of enquiry and proceedings thereon.

6. The officer so appointed, after making enquiry, shall submit a report of his proceedings to the Commissioner.

On receipt of such report, the Commissioner may (*a*) direct a further enquiry, or (*b*) dismiss the application, or, (*c*) by order published in the *Sindh Official Gazette*, appoint an officer (hereinafter called the manager) to manage the immoveable property of the debtor, and to arrange for the liquidation of his debts in manner hereinafter provided.

III.—Of the Order of Management.

"Order of management" to what it extends.

7. Such order (hereinafter called "the order of management") shall extend to all immoveable property of or to which the debtor is on the date of its publication possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on him during the continuance of the management, and to all debts and liabilities to which he is subject, or which are charged on the whole of any part of his immoveable property on the said date.

Commencement of management.

The management shall be deemed to commence from the date on which the order is published.

Effect of order of management.

8. On the publication of the order of management the following consequences shall ensue:

Stay of pending proceedings, &c.

First, all proceedings then pending in any civil Court in British India in respect to the debts and liabilities mentioned in section 7 shall be stayed; and the operation of all processes, executions and attachments then in force for or in respect of such debts and liabilities shall be suspended;

Bar of fresh proceedings

Secondly, so long as the management continues, no fresh proceedings, processes, executions or attachments shall be instituted in or issued by any civil Court in British India in respect of such debts and liabilities;

Debtor incompetent—

Thirdly, so long as the management continues, the debtor shall be incompetent

(*a*) to enter into any contract involving him in pecuniary liability, or — to contract debts,

(*b*) to mortgage, charge, lease or alienate the property under management or any part thereof, or — to encumber or alienate property,

(*c*) to grant valid receipts for the rents and profits arising or accruing therefrom : — to grant receipts for rent thereof.

Provided that nothing contained in this clause shall be deemed to preclude the manager from letting, and the debtor from taking, the whole or any part of such property on such terms, consistent with this Act, as may be agreed upon between the parties :

Fourthly, so long as the management continues, no person other than the manager shall be competent to mortgage, charge, lease or alienate such property or any part thereof.

9. The manager shall, during the management of the property, have all powers which the owner thereof might, as such, have legally exercised, and shall receive and recover all rents and profits due in respect of the property under management, — Manager to have powers of owner and to receive rents and profits,

and for the purpose of recovering such rents and profits shall have, in addition to any powers possessed by a jágírdár or zamíndár, as the case may be, all the powers possessed by a Collector, under the law for the time being in force, for the recovery of land-revenue due to Government : — to have powers of Collector for recovery.

Provided that he shall not, before the liquidation-scheme hereinafter mentioned has been sanctioned, demise the property under management, or any part thereof, for any term exceeding two years, to take effect in possession.

10. From the sums received or recovered under section 9, the manager shall pay— — Manager to pay therefrom—

First, the costs of the management, including the costs of necessary repairs ; — costs of management and repairs,

Secondly, the Government-revenue and all debts and liabilities for the time being due or incurred to Government in respect of the property under management ; — Government revenue, &c,

Thirdly, the rent (if any) due to the jágírdár or other superior holder, in respect of the said property ; — rent due to superior holder,

Fourthly, such periodical allowance as the Commissioner may from time to time fix for the maintenance of the debtor and his family ; — allowance for maintenance of debtor,

Fifthly, the cost of such improvements of the said property as he thinks necessary, and are approved by the Commissioner. — cost of improvements, &c

The residue shall be retained by the manager for the liquidation, in manner — Residue how

disposed of.

hereinafter provided, of the debts and liabilities mentioned in section 7 other than those so due or incurred to Government.

IV.—Proof of Debts and Scheme for Liquidation.

Notice to claimants against debtor

11. On the publication of the order of management, the manager shall publish in the *Sindh Official Gazette* a notice in English and Sindhí, calling upon all persons having claims against the debtor or the property under management to notify the same in writing to such manager within six months from the date of the publication.

Copies of notice to be exhibited.

He shall also cause copies of such notice to be exhibited at the mukhtiárkárs' kachahrís in the district in which the said property lies, and at such other places as he thinks fit.

Claim to contain full particulars.

12. Every such claimant shall, along with his claim, present full particulars thereof.

Documents to be given up.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the manager along with the claim.

Entries in books.

If the document be an entry in any book, the claimant shall produce the book to the manager, together with a copy of the entry on which he relies. The manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

Exclusion of documents not produced.

If any document in the possession or under the control of the claimant is not delivered or produced by him to the manager along with the claim, the manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

Claim not duly notified to be barred.

13. Every such claim (other than claims of the Government) not notified to the manager within the time and in the manner required by such notice shall, except as provided in section 18, clause (*d*), be deemed for all purposes and on all occasions, whether during the continuance of the management or afterwards, to have been duly discharged:

Provision for admission of claims within further period of six months.

Provided that, when proof is made to the manager that the claimant was unable to comply with the provisions of section 11, the manager may receive such claim within the further period of six months from the expiration of the original period of six months.

Determination of debts and liabilities

14. The manager shall inquire into the history and merits of every claim received under sections 11 and 13, and shall, in accordance with the rules to be made under this Act, determine the amount of the debts and liabilities (if any) justly due to the several claimants.

Power to

15. If such amount cannot be paid at once, the manager shall then proceed

to rank such debts and liabilities according to the order in which they shall be paid, and to fix the interest (if any) to be paid thereon, respectively, from the date of the final decision thereon to the date of the payment and discharge thereof. rank debts and to fix interest.

16. When the total amount of the debts and liabilities (including those due and incurred to Government) has been finally determined, the manager shall prepare and submit to the Commissioner a schedule of such debts and liabilities, and a scheme (hereinafter called the liquidation-scheme) showing the mode in which it is proposed to pay and discharge the same, whether from the income of the property under management, or with the aid of funds raised under the powers hereinafter conferred, or partly in one of such ways and partly in the other. Scheme for liquidation.

Every such scheme shall further provide for the continuance of the payments to be made by the manager under section 10, and may provide for the improvement of the property under management either from the said income or with the aid of the funds raised as aforesaid, or partly in one of such ways and partly in the other. Provisions of scheme.

17. The Commissioner may Proceedings of Commissioner on submission of scheme.

(*a*) as often as he thinks fit send back such scheme to the manager for revision, and direct him to make such further inquiry as may be requisite for the proper preparation of the scheme, or

(*b*) sanction any liquidation-scheme, or any revised liquidation-scheme, submitted to him, either as it stands, or subject to such modifications as he may deem expedient.

18. At any time before he has sanctioned a liquidation-scheme under section 17, the Commissioner may, by an order published in the *Sindh Official Gazette*, direct that on a date fixed by such order the management shall be relinquished. Power to relinquish management.

On the date so fixed—

(*a*) the management shall terminate;

(*b*) the owner of the property under management shall be restored to the possession thereof, subject to any leases made under section 9;

(*c*) any residue of the rents and profits of the said property, retained under the last clause of section 10, shall be paid to him; and

(*d*) the proceedings, processes, executions and attachments stayed and suspended under section 8, and the debts and liabilities barred by section 13, shall revive.

In calculating the periods of limitation applicable to suits to recover and enforce debts and liabilities revived under this section, the time during which the management has continued shall be excluded.

V.—Of the Proceedings subsequent to Sanction of the Liquidation-scheme.

Effects of sanctioning scheme.

19. When the Commissioner sanctions the liquidation-scheme, he shall notify the fact of such sanction at such places and in such manner as the Local Government may from time to time by rule direct; and thereupon—

1st, all proceedings, processes, executions and attachments stayed or suspended under section 8 shall be for ever barred, and

2nd, every debt or liability due or owing to any person which was proveable before the manager shall be extinguished, and such person shall be entitled to receive under the liquidation-scheme the amount (if any) finally awarded to him under Part IV of this Act in respect of such debt or liability.

Power to remove mortgagee in possession.

20. If the property under management or any part thereof be in the possession of a mortgagee or conditional vendee, the manager, at any time after the liquidation-scheme has been sanctioned as aforesaid, may, by an order in writing, require such incumbrancer to deliver up possession of the same to him at the end of the then current revenue-year.

If such incumbrancer refuse or neglect to obey such order, the manager may, without resorting to a civil Court, enter upon the property and summarily evict therefrom the said incumbrancer and any other person obstructing or resisting on his behalf.

Nothing in this section shall be held to affect the right of any incumbrancer to receive, under the liquidation-scheme, the amount (if any) awarded to him under Part IV of this Act.

Power to inquire into consideration given for leases.

21. If the property under management or any part thereof be in the possession of any person claiming to hold under a lease dated within the three years immediately preceding the commencement of the management, the manager, with the sanction of the Commissioner, may inquire into the sufficiency of the consideration for which the lease was given; and if such consideration appear to him insufficient, may by order, at any time after the liquidation-scheme has been sanctioned as aforesaid, either set aside the lease or require the person so in possession to pay such consideration for the said lease as the manager thinks fit, and in default of such payment the lease shall be cancelled.

Power to lease

22. Subject to the rules made under section 30, the manager, after the liquidation-scheme has been sanctioned as aforesaid, shall have power to demise all or any part of the property under management for any term of years not exceeding twenty years absolute, to take effect in possession, in consideration of the payment to him of any fine, or without fine, and reserving such rents, and under such conditions, as may be agreed upon.

Power to raise money

23. At any time after the liquidation-scheme has been sanctioned as aforesaid, the manager, with the previous assent of the Commissioner, shall

have power to raise any money which may be required for carrying out such scheme— by mortgage or sale.

(*a*) by demising by way of mortgage the whole or any part of the property under management for a term not exceeding twenty years from the publication of the order of management; or

(*b*) by selling, by public auction or by private contract, and upon such terms as the manager thinks fit, such portion of the said property as may appear expedient.

24. The manager's receipt for any moneys, rents or profits raised or received by him under this Act, shall discharge the person paying the same therefrom and from being concerned to see to the application thereof. Manager's receipt to be discharge.

25. When the debts and liabilities mentioned in the liquidation-scheme have been paid and discharged, the manager shall publish in the *Sindh Official Gazette* a notice fixing a date for the termination of the management. Termination of management.

On the date so fixed the management shall terminate, and the owner shall be restored to the possession and enjoyment of the property under management, or of such part thereof as has not been sold by the manager under the power conferred by section 23, but subject to the leases and mortgages (if any) granted and made by the manager under the powers conferred by sections 9, 22 and 23. Restoration of owner.

26. If the debtor dies after the publication of the order of management and before the management has been terminated in either of the modes hereinbefore provided— Death of debtor during management.

1st, the management shall continue and proceed in all respects as if such debtor were still living;

2ndly, any person succeeding to the whole or any portion of the property under management shall, while such management continues, be subject in respect of such property to the disabilities imposed by clauses (*b*) and (*c*) of section 8; and

3rdly, no civil Court in British India shall, during the continuance of the management, issue any attachment or other process against any portion of the property under management, for or in respect of any debt or liability incurred by any such person whether before or after his said succession.

27. When a jágírdár or zamíndár has been restored under section 25 to the possession of any property, no mortgage, charge, lease or alienation of such property, or of any part thereof, made by such jágírdár or zamíndár, shall be valid as to any time beyond his natural life. Mortgages, &c., made by restored jágírdár valid only for his life.

VI.—Of Appeal and Revision.

28. An appeal against any decision or order under sections 13, 14, 15 and 21 and imposing a fine or imprisonment in exercise of the powers conferred Appeal.

by section 34, shall lie to the Commissioner, if preferred within six weeks from the date of such decision or order.

There shall be no appeal against the decision of the Commissioner on such appeal.

Power to call for proceedings and pass order thereon.

29. The Commissioner may, of his own motion or on the application of any person concerned, call for the proceedings in any case under this Act, and pass such order thereon, consistent with the provisions of this Act, as he thinks fit.

VII.—Miscellaneous.

Power to make rules

30. The Commissioner, with the previous sanction of the Governor of Bombay in Council, may, from time to time, make rules consistent with this Act—

(*a*) to regulate the security to be required from subordinate officers under this Act;

(*b*) to regulate the procedure in all cases under this Act;

(*c*) for the guidance of officers enquiring into and determining on claims under Part IV of this Act; and in particular as to the allowance of interest (if any) on each of the principal debts and liabilities so determined, from the date on which it was incurred down to the date of the determination, and on the aggregate amount of such debts and liabilities from the date of the determination down to the date of payment, and as to the order of paying debts and liabilities;

(*d*) for investing any moneys received or raised by the manager under this Act in any Government-securities of British India, and for the sale of such securities, and

(*e*) generally to carry out the provisions of this Act.

Such rules shall be published in the *Sindh Official Gazette*, and when so published shall have the force of law.

Power to appoint new manager.

31. Whenever the Commissioner thinks fit, he may suspend or remove any manager and may appoint any officer in the stead of any manager appointed under this Act; and thereupon the management then vested under this Act in the former manager shall become vested in the new manager.

Every such new manager shall have the same powers as if he had been originally appointed.

Managers to be public servants.

32. Every manager appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.

Investigation to be deemed judicial proceeding

33. Every investigation conducted by the manager with reference to any claim preferred before him under this Act, or to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.

34. For the purposes of this Act, the manager may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents, by the same means and, as far as possible, in the same manner, as is provided in the case of a civil Court by the Code of Civil Procedure. Power to summon witnesses and compel production of documents.

35. No suit or other proceeding shall be maintained against any person in respect of anything done by him *bonâ fide* pursuant to this Act. Bar of suits.

36. Nothing in this Act precludes the Courts in Sindh having jurisdiction in suits relating to the succession to any immoveable property brought under the operation of this Act, from entertaining and disposing of such suits; but to all such suits the manager of such property shall be made a party. Saving of jurisdiction of Courts in Sindh in respect of certain suits.

ACT No. XV OF 1876.

Received the Governor General's assent on the 14th of September, 1876.

An Act to amend the law relating to the transfer of Bombay municipal debentures, and to provide for their consolidation.

WHEREAS, under the Bombay Municipal Act of 1865, the Justices of the Peace for the city of Bombay were empowered to mortgage for the purposes therein mentioned the rates and taxes imposed and levied under that Act; Preamble.

and whereas, by section 255 of the same Act, it was enacted that any person entitled to any such mortgage might transfer his right and interest therein to any other person, and that every such transfer should be by deed duly stamped, wherein the consideration should be truly stated, and that every such transfer might be according to the form in schedule K to the said Act annexed or to the like effect;

and whereas, in exercise of the said power, divers mortgages of the said rates and taxes have been made, and the mortgagees have purported to transfer their mortgages to other persons, but such transfers have been by simple indorsement and not by deed duly stamped;

and whereas it is expedient to provide that such transfers may hereafter be made by indorsement, and to confirm the said transfers heretofore made, and to exempt the parties thereto from the penalties which they have incurred by reason of their failure to comply with the provisions of the said section and of the law relating to stamp-duties for the time being in force;

and whereas it is also expedient to provide for consolidating such mortgages in manner hereinafter mentioned and for renewing and subdividing mortgages so consolidated;

It is hereby enacted as follows.

Short title.

1. This Act may be called "The Bombay Municipal Debentures Act, 1876."

Transfers of debentures to be by indorsement and free from stamp-duty.

2. Every mortgage of rates and taxes, authorized to be made under the said Bombay Municipal Act of 1865, or any subsequent Act, shall be transferable by indorsement on the instrument of mortgage, and no such indorsement shall be chargeable with any stamp-duty.

Validation of former transfers by indorsement.

3. Every transfer of any such mortgage heretofore made by indorsement shall be, and be deemed to have been, as valid as if this Act had been in force at the date of such transfer; and no stamp-duty shall be, or be deemed to have been, chargeable in respect of any such transfer; and no penalty shall be deemed to have been incurred by reason of any failure to comply with the provisions of the said section 255 or of the law relating to stamp-duties for the time being in force.

Power to consolidate debentures.

4. Any holder of two or more such instruments of mortgage may surrender them to the municipal corporation of the city of Bombay, and such corporation shall accept the same, and shall (on receipt for each such instrument of such fee as the said corporation may from time to time prescribe) grant to such holder, under the seal of the said corporation, an instrument of mortgage in which the consideration stated shall be the aggregate amount of the considerations respectively stated in the instrument so surrendered.

Every instrument so granted may be in the form in the schedule hereto annexed or to the like effect.

Power to renew and subdivide.

5. The said corporation shall, on the application of the holder of any instrument granted under the said Bombay Municipal Act of 1865 or under this Act, and on receipt of such fees as the said corporation may from time to time prescribe in this behalf, renew or subdivide the same.

THE SCHEDULE ABOVE REFERRED TO.

WHEREAS *A B* of has surrendered to us, the municipal corporation of the city of Bombay, mortgages issued under the Bombay Municipal Act of 1865, bearing respectively the following numbers and dates (namely) [*set them out*] and securing sums amounting in the whole to Rs. . In consideration of the premises, we, the said corporation, do hereby grant and assign unto the said *A B*, his representatives and assigns, such proportion of the rates and taxes comprised in the said mortgages as the said sum of Rs. bears to the whole sum for the time being borrowed upon the credit of the said rates and taxes. TO HOLD to the said *A B*, his representatives and assigns, from this day, until the said sum of Rs. with interest at the rate of per cent. per annum shall be fully paid and satisfied.

Given under our corporate seal this day of 187

ACT No. XX of 1876.

Received the Governor General's assent on the 16th of December, 1876.

An Act to give better effect to certain agreements with the Thákur of Bhaunagar.

Preamble.

WHEREAS the villages mentioned in the schedule hereto annexed (hereinafter called the scheduled villages) are the property of the Thákur of Bhaunagar, and were by the Treaty of Bassein, dated the thirty-first day of December, 1802, separated from the Native State or States known as the territory of Káthiáwád and ceded to the British Government:

and whereas, by Regulation VI of 1816[a] of the Governor of Bombay in Council, the Regulations in force throughout the Presidency of Bombay were extended to the said villages, and such villages thereby became subject to the jurisdiction of the revenue, civil and criminal Courts established in that Presidency:

and whereas the said Thákur of Bhaunagar is also the proprietor of divers villages, forming part of the said territory, and hereinafter called the Káthiáwád villages.

and whereas the British Government have exercised certain powers of government over the said territory, but such territory has never been treated as being British territory, nor as having been vested in the East India Company, nor in Her Majesty the Queen of Great Britain and Ireland and Empress of India, and the said Káthiáwád villages have consequently never been subject to the laws in force in the Presidency of Bombay:

and whereas in the year 1820 the British Government established a Political Agency for the said territory of Káthiáwád:

and whereas in the year 1857 the said Thákur was, by an order of the British Government, invested in respect of the same villages with certain powers of sovereignty limited by and subject to the rules laid down for the government and conduct of the said Káthiáwád Political Agency:

and whereas for divers reasons of State affecting the welfare of British India, the British Government became desirous of ceding to the Thákur of Bhaunagar the scheduled villages, to be held by him on the same conditions as those on which he holds the Káthiáwád villages, and for that purpose certain agreements were made and certain notifications published which were intended to operate as a cession of the scheduled villages:

and whereas on the twenty-ninth day of January, 1866, the Governor of Bombay in Council published a notification declaring that, in accordance with

[a] Repealed by Bombay Regulation I of 1827.

the agreement last hereinbefore recited, the scheduled villages were from and after the first day of February, 1866, removed from the jurisdiction of the revenue, civil and criminal Courts of the Bombay Presidency and transferred to the supervision of the said Political Agency in Káthiáwád on the same conditions as to jurisdiction as the said Káthiáwád villages:

and whereas the intention of the said agreements and notifications was that the villages comprised therein should be ceded to and vested in the Thákur of Bhaunagar, to be held by him on the terms on which he holds the Káthiáwád villages:

and whereas ever since the first day of February, 1866, the scheduled villages have been governed according to the intention of the said agreements, and acts of executive authority have been done, proceedings taken and decrees and sentences passed by the Thákur of Bhaunagar and his officers, and by the officers of the said Political Agency, and by the Courts of justice appointed to exercise jurisdiction within the limits of the said Political Agency:

and whereas it now appears that such agreements and notifications were not worded so as to express their true intention, and that the scheduled villages did not thereby cease to be British territory, or to be subject to the laws in force in the Presidency of Bombay:

and whereas by a notification dated the fifth day of December, 1876, after reciting to the effect above recited, and reciting that the Secretary of State for India had on behalf of Her Majesty the Queen of Great Britain and Empress of India, given his sanction to the cession intended to be thereby effected, the Governor General in Council, with the sanction aforesaid, did thereby cede and grant to the said Thákur of Bhaunagar, his heirs and successors, the said scheduled villages, to hold the same unto the said Thákur, his heirs and successors, on the terms and subject to the rules on and subject to which he holds the said Káthiáwád villages, but it was thereby provided that, in case the said Thákur, his heirs or successors should commit any acts of misgovernment which, in the opinion of the Governor General in Council, rendered it inexpedient that the said Thákur, his heirs and successors should continue to hold the said scheduled villages, the Governor General in Council might resume the villages thereby ceded and reannex the same to Her Majesty's dominions:

and whereas it is expedient (so far as relates to any past or future proceedings in British India) to ratify the aforesaid acts, proceedings and sentences of the Thákur of Bhaunagar and the officers and Courts aforesaid, and to indemnify the said Thákur and officers against any liability in respect thereof, and to provide that no title to property shall be disturbed by any act, proceeding or sentence of any other authority; It is hereby enacted as follows:—

Short title. 1. This Act may be called "The Bhaunagar Act, 1876."

It extends only to British India;

Local extent.

And it shall come into force at once.

Commencement.

2. The said scheduled villages shall be deemed to have been, on and after the said first day of February, 1866, excluded from the jurisdiction of the revenue, civil and criminal Courts of the Bombay Presidency.

Scheduled villages excluded from jurisdiction of Bombay Courts.

3. All acts of executive authority, proceedings, decrees and sentences which have been done, taken or passed subsequently to the first day of February, 1866, and which would have been valid if the scheduled villages had been ceded according to the intention of the said agreements and notification, shall be as valid and operative in British India as if such cession had actually been effected; and no suit or other proceeding shall be maintained or continued against any person whatever on the ground that the scheduled villages did not cease to be British territory on the first day of February, 1866.

Validation of acts done after 1st February, 1866.

Bar of suits.

4. Nothing in this Act shall affect any jurisdiction which any Court of Justice in British India may for the time being be entitled to exercise over persons resident or being beyond the limits of British India.

Saving of personal jurisdiction of Courts of British India.

SCHEDULE.

Bhaunagar Taluqa.

Bhaunagar.	Málanka.	Háthab.
Wadwá.	Bhutesar.	Khadsuliu.
Ruhá.	Bhumlí.	Bhadbadiu.
Akwárá.	Ratanpur Juná.	Alápur.
Adhiwárá.	Ratanpur Nuwá.	Thalsar.
Tarsamía.	Koliak.	Lákhanka.
Jasparí.	Kobri.	Sultánpur.
Phulsar.	Bhurí.	Wávri.
Karmadiu.	Bhundariu.	Rámpura.
Surká.	Churi.	Bhenswari, Jhánjrá (*waste*).
Tarak Pálrí.	Sánkrásar.	
Nárí.	Bhádole.	
Budhel.	Nágdhaníba.	

Sihór Taluqa.

Sihór.	Táná.	Ratanpur *near* Táná.
Usrad.	Bordi.	Wadiu.
Agiáli.	Kájáwadar.	Waláwad.

Megwadar.	Rájpura.	Surká.
Ghángli.	Khakhriu.	Jámbálu.
Nesra.	Kardej.	Kuchotiu (*waste*).
	Chirora (*waste*).	

New Villages.

Gundi.	Trápaj.	Píthalpur.
Mándwá.	Bapárá.	Khántarí.
Sosiá.	Pánchpíplá.	Deogána.
Paniálí.	Rájpura.	Thordí.
	Khadarpur Mitiverdi.	

Inám Villages.

Wartej.	Sámpura.	Sodwadra.
Sidhsar.	Phariádku.	Sedhawadar.
	Kálví (*waste*).	

Dhanduka Pargana.

Pátna Taluqa.

Pátna.	Kánutalao.	Dantretía.
Bharbír.	Ratanwau.	Samandiála.
Chakampur.	Keriá.	Kariání.
Sarwui.	Jamrála.	Láthídhar.
Jhinjhawadar.	Ujalwau.	Weláwadar.
Pátí.	Jotingra.	Vírdhi *or* Rájghar.
Keria *near* Pátí.	Shírthali.	Sajelí.
Bhámbhau.	Dhíkwáli.	Oteriá.
Samandeála, 2.	Wajelí.	Sándherá.
Tájpur.	Lundrá.	Nágalpur.
	Málpur.	

Ranpur Pargana.

Botád Taluqa.

Botád.	Dánkniá.	Kániád.
Hardar.	Khankoí.	Rájpura.
Sírwániu.	Turkhá.	Juriá.

THE BROACH AND KAIRA INCUMBERED ESTATES ACT, 1877.

CONTENTS.

Preamble.

I.—PRELIMINARY.

SECTIONS.

1. Short title.
   Commencement.
2. Act No. XV of 1871 repealed.
3. Interpretation-clause.

II.—OF THE APPLICATION AND PRELIMINARY INQUIRY.

4. Application for benefit of Act.
5. Order to enquire.
6. Verified statement to be submitted.
   False averments in statement.
7. Report of enquiry and proceedings thereon.

III.—OF THE ORDER OF MANAGEMENT.

8. "Order of management" to what it extends.
   Commencement of management.
9. Effect of order of management.
   Stay of pending proceedings, &c.
   Bar of fresh proceedings.
   Debtor incompetent—
   to contract debts,
   to encumber or alienate property,
   to grant receipts for rent.
10. Manager to have powers of owner and to receive rents and profits, to have powers of Collector for recovery.
11. Manager to pay therefrom—
   costs of management and repairs,
   Government-revenue, &c.,
   rent due to superior holder,
   allowance for maintenance and expenses of debtor and family,
   cost of improvements, &c.
   Residue how disposed of.

IV.—PROOF OF DEBTS AND SCHEME FOR LIQUIDATION.

12. Notice to claimants against debtor.
   Copies of notice to be exhibited.

SECTIONS

13. Claim to contain full particulars.
Documents to be given up.
Entries in books.
Power to exclude documents not produced with claim.
14. Claim not duly notified to be barred.
Admission of claims within further period of six months.
15. Determination of debts and liabilities.
16. Power to rank debts and to fix interest.
17. Scheme for liquidation.
Provisions of scheme.
18. Proceedings of Commissioner on submission of scheme.
19. Power to relinquish management.

V.—OF THE PROCEEDINGS SUBSEQUENT TO SANCTION OF THE LIQUIDATION-SCHEME.

20. Effects of sanctioning scheme.
21. Power to remove mortgagee in possession.
22. Power to inquire into consideration given for leases.
23. Power to lease.
24. Power to raise money by mortgage or sale.
25. Manager's receipt discharge.
26. Termination of management.
Restoration of owner.
27. Death of debtor during management.
28. Mortgages, &c., made by restored thákur valid only for his life.

VI.—OF APPEAL AND REVISION.

29. Appeal.
30. Power to call for proceedings and pass order thereon.

VII.—MISCELLANEOUS.

31. Power to make rules.
32. Power to appoint new manager.
33. Managers and agents to be public servants.
34. Investigation a judicial proceeding.
35. Power to summon witnesses and compel production of documents.
36. Bar of suits.
37. Saving of jurisdiction of Courts in Broach and Kaira in respect of certain suits.
38. Exemption of certain thákurs from certain provisions.
39. Amendment of Bombay Act VI of 1862.
40. Taluqdárí Settlement-officer to be deemed—
officer under Bombay Act VI of 1862, section 1,
assistant to certain Collectors.
41. Acts of taluqdárí Settlement-officer valid.

ACT No. XIV OF 1877.

Received the Governor General's assent on the 28th of June, 1877.

An Act to relieve from incumbrances the estates of Thákurs in Broach and Kaira.

Preamble.

WHEREAS many thákurs in the districts of Broach and Kaira are in debt, and their immoveable property is subject to mortgages, charges and liens; and whereas it is expedient to provide for their relief in manner hereinafter appearing; It is hereby enacted as follows:—

I.—PRELIMINARY.

Short title.

1. This Act may be called "The Broach and Kaira Incumbered Estates Act, 1877:"

Commencement.

And it shall come into force on the passing thereof.

Act No. XV of 1871 repealed.

2. Act No. XV of 1871 (*to relieve from incumbrances the estates of thákurs in Broach*) is repealed: but all applications and appointments and rules made, all notices published, and all other things duly done, under the said Act, shall be deemed to have been respectively made, published and done under this Act.

Interpretation clause.

3. In this Act—

"Thákur."

"thákur" means also taluqdár, jágírdár and kasbátí, and such other classes of holders of estates as the Local Government may, with the previous sanction of the Governor General in Council, declare to be thákurs for the purposes of this Act:

"Heir."

"heir" means the person for the time being entitled as heir to a thákur:

"Commissioner."

"Commissioner" means the Revenue-Commissioner of the Northern Division of the Presidency of Bombay.

II.—OF THE APPLICATION AND PRELIMINARY INQUIRY.

Application for benefit of Act.

4. At any time within twelve months after the passing of this Act, any thákur,

or any person who would be sole heir or one of the heirs to such thákur if he then died intestate,

may apply, in writing, to the Commissioner, stating that such thákur is subject to debts or liabilities, other than debts due, or liabilities incurred, to Government, or that his immoveable property is charged with debts or liabilities other than as aforesaid, and requesting that the provisions of this Act be applied to his case.

When any thákur or other person entitled to make an application under this section is a minor, or of unsound mind, or an idiot, such application may be made on his behalf by the guardian or other legal curator of his person, or by the legally constituted administrator or manager of his estate.

Order to enquire.

5. When any such application is made by or on behalf of a thákur, or the person who would be his sole heir if he then died, the Commissioner shall direct an enquiry to be made by such officer as he thinks fit into the nature and amount of such debts and liabilities and the sufficiency of the debtor's property, whether moveable or immoveable, to discharge the same.

When such an application is made in any other case, it shall be in the discretion of the Commissioner, subject to any general rules which may from time to time be made by the Governor of Bombay in Council in this behalf, either to reject such application or to direct an enquiry to be made as aforesaid.

Verified statement to be submitted

6. When an enquiry has been directed under section 5, the applicant shall, within a period to be fixed by the Commissioner, submit to the officer appointed to make such enquiry a statement duly verified by the said applicant, or by some other competent person, in the manner required by law for the verification of plaints, and containing, so far as may be practicable, such details as to the debts and liabilities, and as to the sufficiency of the debtor's property, whether moveable or immoveable, to meet the same, as the Commissioner or the said officer, subject to his control, may require.

False averments in statement.

If any such statement contains any averment which the person making the verification knows or believes to be false, or does not know or believe to be true, such person shall be deemed to have intentionally given false evidence within the meaning of the Indian Penal Code.

Report of enquiry and proceedings thereon

7. The officer so appointed, after making enquiry, shall submit a report of his proceedings to the Commissioner.

On receipt of such report, the Commissioner may—

(*a*) direct a further enquiry, or

(*b*) dismiss the application, or

(*c*) by order published in the *Bombay Government Gazette*, direct that the immoveable property of the debtor shall be managed, and that his debts shall be liquidated, in the manner hereinafter provided, by a manager.

The Taluqdárí Settlement-officer for the time being shall, unless the Local Government in any case otherwise directs, be such manager.

III.—Of the Order of Management.

"Order of management" to what it extends.

8. Such order (hereinafter called "the order of management") shall extend to all immoveable property of or to which the debtor is on the date of its publication possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on him during the continuance of the management, and to all debts and liabilities to which he is subject, or which are charged on the whole or any part of his immoveable property on the said date.

The management shall be deemed to commence from the date on which the order is published. Commencement of management.

9. On the publication of the order of management the following consequences shall ensue: Effect of order of management.

First, all proceedings then pending in any civil Court in British India in respect to the debts and liabilities mentioned in section 8 shall be stayed; and the operation of all processes, executions and attachments then in force, for or in respect of such debts and liabilities, shall be suspended; Stay of pending proceedings, &c.

Secondly, so long as the management continues, no fresh proceedings, processes, executions or attachments shall be instituted in or issued by any civil Court in British India in respect of such debts and liabilities; Bar of fresh proceedings

Thirdly, so long as the management continues, the debtor shall be incompetent— Debtor incompetent—

(*a*) to enter into any contract involving him in pecuniary liability, or to contract debts,

(*b*) to mortgage, charge, lease or alienate the property under management or any part thereof, or to incumber or alienate property,

(*c*) to grant valid receipts for the rents and profits arising or accruing therefrom: to grant receipts for rent.

Provided that nothing contained in this clause shall be deemed to preclude the manager from letting, and the debtor from taking, the whole or any part of such property on such terms, consistent with this Act, as may be agreed upon between the parties;

Fourthly, so long as the management continues, no person other than the manager shall be competent to mortgage, charge, lease or alienate such property or any part thereof.

10. The manager shall, during the management of the property, have all powers which the owner thereof might, as such, have legally exercised, and shall receive and recover all rents and profits due in respect of the property under management, Manager to have powers of owner and to receive rents and profits,

and for the purpose of recovering such rents and profits shall have, in addition to any powers possessed by a thákur, all the powers possessed by a Collector, under the law for the time being in force, for securing and recovering land-revenue due to Government: to have powers of Collector for recovery.

Provided that he shall not, before the liquidation-scheme hereinafter mentioned has been sanctioned, demise the property under management, or any part thereof, for any term exceeding two years, to take effect in possession.

11. From the sums received or recovered under section 10, the manager shall pay— Manager to pay therefrom—

First, the costs of the management, including the costs of necessary repairs; costs of management and repairs,

Government-revenue, &c,

Secondly, the Government-revenue and all debts and liabilities for the time being due or incurred to Government in respect of the property under management;

rent due to superior holder,

Thirdly, the rent (if any) due to any superior holder in respect of the said property;

allowance for maintenance of debtor and family,

Fourthly, such periodical allowance as the Commissioner may from time to time fix for the maintenance and other necessary expenses of the debtor and of such members of his family as the Commissioner directs;

cost of improvements, &c

Fifthly, the cost of such improvements of the said property as he thinks necessary, and as are approved by the Commissioner.

Residue how disposed of

The residue shall be retained by the manager for the liquidation, in manner hereafter provided, of the debts and liabilities mentioned in section 8 other than those so due or incurred to Government.

IV.—Proof of Debts and Scheme for Liquidation.

Notice to claimants against debtor

12. On the publication of the order of management, the manager shall publish in the *Bombay Government Gazette* a notice in English and Guzaráthí, calling upon all persons having claims against the debtor or the property under management to notify the same in writing to such manager within six months from the date of the publication.

Copies of notice to be exhibited

He shall also cause copies of such notice to be exhibited at the mámlatdárs, kachahrís in the district in which the said property lies, and at such other places as he thinks fit.

Claim to contain full particulars.

13. Every such claimant shall, along with his claim, present full particulars thereof.

Documents to be given up

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the manager along with the claim.

Entries in books.

If the document be an entry in any book, the claimant shall produce the book to the manager together with a copy of the entry on which he relies. The manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

Power to exclude documents not produced with claim

If any document in the possession or under the control of the claimant is not delivered or produced by him to the manager along with the claim, the manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

Claim not duly notified to be barred.

14. Every such claim (other than claims of the Government) not notified to the manager within the time and in the manner required by such notice shall, except as provided in section 19, clause (*d*), be deemed for all purposes

and on all occasions, whether during the continuance of the management or afterwards, to have been duly discharged:

Admission of claims within further period of six months.

Provided that, when proof is made to the manager that the claimant was unable to comply with the provisions of section 12, the manager may receive such claim within the further period of six months from the expiration of the original period of six months.

Determination of debts and liabilities.

15. The manager shall inquire into the history and merits of every claim received under sections 12 and 14, and shall, in accordance with the rules to be made under this Act, determine the amount of the debts and liabilities (if any) justly due to the several claimants.

Power to rank debts and to fix interest.

16. If such amount cannot be paid at once, the manager shall then proceed to rank such debts and liabilities according to the order in which they shall be paid, and to fix the interest (if any) to be paid thereon, respectively, from the date of the final decision thereon to the date of the payment and discharge thereof.

Scheme for liquidation.

17. When the total amount of the debts and liabilities (including those due and incurred to Government) has been finally determined, the manager shall prepare and submit to the Commissioner a schedule of such debts and liabilities, and a scheme (hereinafter called the liquidation-scheme) showing the mode in which it is proposed to pay and discharge the same, whether from the income of the property under management, or with the aid of funds raised under the powers hereinafter conferred, or partly in one of such ways and partly in the other.

Provisions of scheme.

Every such scheme shall further provide for the continuance of the payments to be made by the manager under section 11, and may provide for the improvement of the property under management either from the said income or with the aid of the funds raised as aforesaid, or partly in one of such ways and partly in the other.

Proceedings of Commissioner on submission of scheme.

18. The Commissioner may—

(*a*) as often as he thinks fit send back such scheme to the manager for revision, and direct him to make such further inquiry as may be requisite for the proper preparation of the scheme, or

(*b*) sanction any liquidation-scheme, or any revised liquidation-scheme, submitted to him, either as it stands, or subject to such modifications as he may deem expedient.

Power to relinquish management.

19. At any time before he has sanctioned a liquidation-scheme under section 18, the Commissioner may, by an order published in the *Bombay Government Gazette*, direct that on a date fixed by such order the management shall be relinquished.

On the date so fixed—

(*a*) the management shall terminate;

(*b*) the owner of the property under management shall be restored to the possession thereof, subject to any leases made under section 10;

(*c*) any residue of the rents and profits of the said property, retained under the last clause of section 11, shall be paid to him; and

(*d*) the proceedings, processes, executions and attachments stayed and suspended under section 9, and the debts and liabilities barred by section 14, shall revive.

In calculating the periods of limitation applicable to suits to recover and enforce debts and liabilities revived under this section, the time during which the management has continued shall be excluded.

V.—Of the Proceedings subsequent to Sanction of the Liquidation-scheme.

Publication of sanction of scheme.

Effects thereof

20. When the Commissioner sanctions the liquidation-scheme, he shall notify the fact of such sanction at such places and in such manner as the Local Government may from time to time by rule direct; and thereupon—

1st, all proceedings, processes, executions and attachments stayed or suspended under section 9 shall be for ever barred; and

2nd, every debt or liability due or owing to any person which was proveable before the manager shall be extinguished, and such person shall be entitled to receive under the liquidation-scheme the amount (if any) finally awarded to him under Part IV of this Act in respect of such debt or liability.

Power to remove mortgagee in possession.

21. If the property under management or any part thereof be in the possession of a mortgagee or conditional vendee, the manager, at any time after the liquidation-scheme has been sanctioned as aforesaid, may, by an order in writing, require such incumbrancer to deliver up possession of the same to him at the end of the then current revenue-year.

If such incumbrancer refuse or neglect to obey such order, the manager may, without resorting to a civil Court, enter upon the property and summarily evict therefrom the said incumbrancer and any other person obstructing or resisting on his behalf.

Nothing in this section shall be held to affect the right of any incumbrancer to receive, under the liquidation-scheme, the amount (if any) awarded to him under Part IV of this Act.

Power to inquire into consideration given for leases.

22. If the property under management or any part thereof be in the possession of any person claiming to hold under a lease dated within the three years immediately preceding the commencement of the management, the manager may inquire into the sufficiency of the consideration for which the

lease was given; and if such consideration appear to him insufficient, may by order, with the consent of the Commissioner, at any time after the liquidation-scheme has been sanctioned as aforesaid, either set aside the lease or require the person so in possession to pay such consideration for the said lease as the manager thinks fit, and in default of such payment, the lease shall be cancelled.

Power to lease.

23. Subject to the rules made under section 31, the manager, after the liquidation-scheme has been sanctioned as aforesaid, shall have power to demise all or any part of the property under management for any term of years not exceeding twenty years absolute, to take effect in possession, in consideration of the payment to him of any fine, or without fine, and reserving such rents, and under such conditions, as may be agreed upon.

Power to raise money by mortgage or sale.

24. At any time after the liquidation-scheme has been sanctioned as aforesaid, the manager, with the previous assent of the Commissioner, shall have power to raise any money which may be required for carrying out such scheme—

(*a*) by mortgaging the whole or any part of the property under management for a term not exceeding twenty years from the publication of the order of management; or

(*b*) by charging the whole or any part of such property; or

(*c*) by selling, by public auction or by private contract, and upon such terms as the manager thinks fit, such portion of the said property as may appear expedient.

Manager's receipt to discharge payer.

25. The manager's receipt for any moneys, rents or profits raised or received by him under this Act, shall discharge the person paying the same therefrom and from being concerned to see to the application thereof.

Termination of management.

26. When the debts and liabilities mentioned in the liquidation-scheme have been paid and discharged as therein provided, or in such other manner as the Commissioner thinks fit, the manager shall publish in the *Bombay Government Gazette* a notice fixing a date for the termination of the management.

Restoration of owner.

On the date so fixed the management shall terminate, and the owner shall be restored to the possession and enjoyment of the property under management, or of such part thereof as has not been sold by the manager under the power conferred by section 24, but subject to the leases and mortgages (if any) granted and made by the manager under the powers conferred by sections 10, 23 and 24.

Death of debtor during management.

27. If the debtor dies after the publication of the order of management and before the management has been terminated in either of the modes herein-before provided—

1st, the management shall continue and proceed in all respects as if such debtor were still living;

2ndly, any person succeeding to the whole or any portion of the property under management shall, while such management continues, be subject in respect of such property to the disabilities imposed by clauses (*b*) and (*c*) of section 9; and

3rdly, no civil Court in British India shall, during the continuance of the management, issue any attachment or other process against any portion of the property under management, for or in respect of any debt or liability incurred by any such person whether before or after his said succession.

Mortgages, &c., made by restored thákur valid only for his life.

28. When a thákur has been restored under section 26 to the possession of any property, no mortgage, charge, lease or alienation of such property, or of any part thereof, made by such thákur, shall be valid as to any time beyond his natural life.

VI.—Of Appeal and Revision.

Appeal.

29. An appeal against any decision or order under sections 14, 15, 16 and 22, or imposing a fine or imprisonment in exercise of the powers conferred by section 35, shall lie to the Commissioner, if preferred within six weeks from the date of such decision or order.

There shall be no appeal against the decision of the Commissioner on such appeal.

Power to call for proceedings and pass order thereon.

30. The Commissioner may, of his own motion or on the application of any person concerned, call for the proceedings in any case under this Act, and pass such order thereon, consistent with the provisions of this Act, as he thinks fit.

VII.—Miscellaneous.

Power to make rules.

31. The Local Government may, from time to time, make rules consistent with this Act—

(*a*) to regulate the security to be required from subordinate officers under this Act;

(*b*) to regulate the procedure in all cases under this Act;

(*c*) for the guidance of officers enquiring into and determining on claims under Part IV of this Act; and in particular as to the allowance of interest (if any) on each of the principal debts and liabilities so determined, from the date on which it was incurred down to the date of the determination, and on the aggregate amount of such debts and liabilities from the date of the determination down to the date of payment, and as to the order of paying debts and liabilities;

(*d*) for investing any moneys received or raised by the manager under this Act in any Government-securities of British India, and for the sale of such securities, and

(*e*) generally to carry out the provisions of this Act.

Such rules shall be published in the *Bombay Government Gazette*, and when so published shall have the force of law.[a]

Power to appoint new manager.

32. The Local Government may suspend or remove any manager, and may appoint any officer in the stead of any manager appointed under this Act; and thereupon the management then vested under this Act in the former manager shall become vested in the new manager.

Every such new manager shall have the same powers as if he had been originally appointed.

Managers and agents to be public servants.

33. Every manager appointed under this Act and every agent of such manager shall be deemed a public servant within the meaning of the Indian Penal Code.

Investigation a judicial proceeding.

34. Every investigation conducted by the manager with reference to any claim preferred before him under this Act, or to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.

Power to summon witnesses and compel production of documents.

35. For the purposes of this Act, the manager and any officer making an enquiry under section 5 may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents, by the same means and, as far as possible, in the same manner, as is provided in the case of a civil Court by the Code of Civil Procedure.

Bar of suits.

36. No suit or other proceeding shall be maintained against any person in respect of anything done by him *bonâ fide* pursuant to this Act.

Saving of jurisdiction of Courts in Broach and Kaira in respect of certain suits.

37. Nothing in this Act precludes the Courts in Broach and Kaira having jurisdiction in suits relating to the succession to any immoveable property brought under the operation of this Act from entertaining and disposing of such suits; but to all such suits the manager of such property shall be made a party.

Exemption of certain thákurs from certain provisions.

38. Nothing in section 9 shall be deemed to render any of the following thákurs, namely, the thákur of Ahmod, the thákur of Sarod, the thákur of Kerwára, the thákur of Dehej and the thákur of Janiádra incompetent to enter into contracts involving him in pecuniary liability, nor shall anything in section 28 apply to any of the said thákurs:

Provided that, if any such thákur has, since the scheme for the settlement of his debts and liabilities was approved under section 11 of the said Act No. XV of 1871,[b] enter[c] into any contract involving him in pecuniary liability exceeding the average annual income derived during the previous five years from his immoveable property after deducting therefrom the land-tax and other dues of Government, the Local Government may, by notification in the *Bom-*

[a] See *Bombay Government Gazette*, 16th August, 1877, p. 731.
[b] Repealed by this Act. [c] *Sic.* Read "entered."

bay Government Gazette, declare that the exemption made by the former part of this section shall cease in his case, and thereupon such exemption shall cease accordingly.

Amendment of Bombay Act VI of 1862.

39. And whereas doubts have been raised as to the validity of Bombay Act No. VI of 1862 [a] (*for the amelioration of the condition of taluqdárs in the Ahmadábád Collectorate, and for their relief from debt*) so far as it purports to affect the High Court of Judicature at Bombay, for the purpose of precluding such doubts, it is hereby further enacted that the said Act, so far as it purports to affect the said High Court, shall be deemed to be and to have been valid.

Taluqdárí Settlement-officer to be—

40. The said taluqdárí Settlement-officer for the time being shall, unless the Local Government in any case otherwise directs, be—

deemed officer under Bombay Act V I of 1862, section 1;

(*a*) deemed to be an officer appointed under section 1 of the said Bombay Act No. VI of 1862, to manage all estates with respect to which a declaration is or has been made and published under the said section;

assistant to certain Collectors.

(*b*) an assistant to the respective Collectors of Ahmadábád, Kaira and Broach.

Acts of taluqdárí Settlement-officer valid.

41. Nothing heretofore done by any taluqdárí Settlement-officer shall be deemed to be or to have been invalid by reason only of his not having been duly appointed,

(*a*) under section 1 of the said Bombay Act No. VI of 1862, to manage any estates with respect to which a declaration has been made under the said section, or

(*b*) to be a manager under the said Act No. XV of 1871,[b] or

(*c*) to be an assistant to the respective Collectors of Ahmadábád, Kaira and Broach.

ACT No. XVI OF 1877.

Received the Governor General's assent on the 9th of August, 1877.

An Act to amend the Bombay Revenue Jurisdiction Act, 1876.

Preamble.

WHEREAS it is expedient to exempt from the operation of the fourth section of the Bombay Revenue Jurisdiction Act, 1876, certain suits instituted in the districts mentioned in the schedule hereto annexed; It is hereby enacted as follows:—

Addition to section 5, Act X of 1876.

1. To section 5 of the said Act the following clause shall be added (namely)—

[See *supra*, p. 133.]

Schedule added to Act X of 1876.

2. The following schedule shall be added to the said Bombay Revenue Jurisdiction Act, 1876 (namely)—

[See *supra*, p. 133.]

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[a] See *infra*, p. 172.

[b] Repealed by this Act

PART III:

ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL.

ACT No. I OF 1862.

Received the Governor's assent on the 25th of February, 1862, and the Governor General's assent on the 22nd of March, 1862.

An Act for bringing under the Regulations and Acts certain lands ceded by His Highness the Gáikwár for railway-purposes.

Preamble.

WHEREAS His Highness the Gáikwár has ceded to the Government of India certain lands for the construction of a railway through his territories, and it is necessary that those lands should be annexed to the Presidency of Bombay, and made subject to the laws and Regulations of that Presidency; It is enacted as follows:—

Land delivered by Gáikwár for railway to form part of Surat zila, and be subject to Bombay laws.

1. All such parts of villages mentioned in the schedule annexed to this Act as have been delivered over by His Highness the Gáikwár to the Government of India, for the construction of the Bombay, Baroda and Central India Railway, shall, from and after the passing of this Act, form part of the zila of Surat, and be subject to the Regulations and Acts which are or shall be in force within the territories subject to the Presidency of Bombay.

SCHEDULE.

Baroda Pargana.

1 Haldarva.
2 Tosrod.
3 Vallan.
4 Dethán (Inámi).
5 Lákodra.
6 Varva.
7 Miyágám.
8 Karjan.
9 Kandári.
10 Kerda.
11 Sarád (Inámi).
12 Kásipura.
13 Itola.
14 Varsala.

Baroda Pargana—continued.

15 Vadnámu.
16 Dalipur.
17 Máritha.
18 Mánája.
19 Vadsar (Inámi).
20 Májalpur (Inámi).
21 Nágarváda.
22 Akota.
23 Jetalpur.
24 Gorva.
25 Kudodia.
26 Undera.
27 Bájuvá.
28 Kadchia.
29 Ranoli.
30 Padamla.
31 Nandesri.
32 Fázalpur (up the river Mahi).

Surat Athávisi Pargana.

33 Sakhpur-urf Rond, pargana Galet.
34 Pellotha, Pargana Vesráni.
35 Chuvácha, ditto ditto.
36 Kusumba, ditto ditto.
37 Tarsáli, ditto ditto.
38 Háturan, ditto ditto.
39 Varadla, ditto ditto.
40 Maroli Kasba.
41 Posra, Pargana Maroli.
42 Morvád, Pargana Telári.
43 Chinam, ditto ditto.
44 Tavri, ditto ditto.
45 Navsári Kasba.
46 Ságara, Pargana Navsári (Inámi).
47 Kudoli, ditto ditto.
48 Dánoda, Pargana Gandevi.
49 Bilimora, ditto ditto.
50 Desra, ditto ditto.

ACT No. IV of 1862.

Received the Governor's assent on the 31st of March, 1862, and the Governor General's assent on the 14th of April, 1862.

An Act for regulating the establishment of markets and fairs.

Preamble.

WHEREAS the establishment of new markets or fairs in the neighbourhood of places where markets or fairs have been previously established leads to disputes between the owners of the lands on which such new and previously established markets or fairs are held, and such disputes not unfrequently occasion breaches of peace and serious inconvenience to the frequenters of such markets or fairs; It is enacted as follows:—

No new market or fair to be established without permission.

1. No person shall establish a new market or fair without permission, in writing, from the Magistrate of the district.

Penalty for attempt to establish

If any person shall attempt to establish a new market or fair without such license, he shall, on conviction by the Magistrate, be subject to a fine not

exceeding two hundred rupees, or in default of payment, to simple imprisonment for any period not exceeding two calendar months. without license.

2. When any person desires to establish a new market or fair, he shall make application, in writing, to the Magistrate of the district. Person desiring to establish to apply to Magistrate.

The application shall specify Contents of application.

the name of the place at which it is proposed to establish such new market or fair;

the days on which it is to be held;

the name of the place where the nearest existing market or fair is held, and the days on which it is held;

the distance, in English miles, between the two places, and

the reasons of the applicant for desiring to establish the new market or fair.

3. On receipt of the application, the Magistrate shall issue a proclamation stating the desire of the applicant to establish a market or fair at the place named by him and the days on which it is proposed to be held, and calling upon any person who may have any objection to the establishment of the market or fair to state his objection, in writing, within six weeks from the date of the proclamation. Procedure on application.

The proclamation shall be fixed in a conspicuous place in the village or town in or near to which it is proposed that the new market or fair shall be held, and a copy of the same shall be affixed at the Police-station within the jurisdiction of which the village or town is situated, and in the Court of the Magistrate. Publication of proclamation.

If it shall appear that any existing market or fair is held within a distance of four miles from the place where it is proposed that the new market or fair shall be established, the Magistrate shall cause a notice, to the effect of the proclamation, to be served upon the owner of the land where such existing market or fair is held. Notice to land-owner of neighbouring market.

The proclamation and notice (if any) shall be issued and served at the expense of the applicant.

4. If within the time specified in the proclamation and notice (if any), no objection is preferred to the establishment of the proposed market or fair, the Magistrate of the district shall pass an order permitting it to be established. Order permitting establishment.

If within the time specified any objection is preferred, the Magistrate of the district shall inquire into the objection, and pass such order as may appear proper under the circumstances of the case. Inquiry into objection

5.—[*Repealed by Act No. XII of 1876*].

6. Every order passed by a Magistrate under this Act shall, within six Appeal.

weeks, be open to appeal to the Commissioner of Police, and the order of the Commissioner shall be final.

Penalty for contravening, disobeying or opposing order.

7. Every person who shall contravene, disobey or oppose any order duly made under this Act shall be liable to a fine not exceeding two hundred rupees, or, in default of payment, to imprisonment of either kind for any period not exceeding two calendar months.

Extent.

8. This Act shall not extend to the Islands of Bombay and Colába.

Exemption of religious assemblages.

9. Nothing in this Act shall be held to apply to assemblages of people collected at, or concerned in, the inauguration of sacred edifices, or collected at, or concerned in, any other religious festivals or ceremonies not forming a part of a fair or market.

Saving of general powers of Government.

10. Nothing in this Act shall be held to restrict the general powers of Government to control the orders of the Magistrate or Commissioner of Police in regard to markets or fairs.

Interpretation of "Magistrate" when used alone.

11. The word "Magistrate" when used alone, without the addition of the words "of the District," includes every officer authorized to exercise the full powers of the Magistrate.

ACT No. V of 1862.

Received the Governor General's assent on the 14th of April, 1862.

An Act for the preservation of the Bhágdárí and Narwádárí Tenures.

Preamble.

WHEREAS it has been found that the permanence of the tenures known as the bhágdárí and narwádárí tenures, which have existed from time immemorial in certain parts of the Presidency of Bombay, is endangered by the increasing practice of attachment and sale by civil process of the homesteads and building-sites ("gabhán") appertaining or appendant to the constituted bhágs, or the recognized sub-divisions of such bhágs or shares in bhágdárí or narwádárí villages:

and whereas it is desirable to prevent the alienation, assignment, mortgaging, charging or incumbering of any portion of any bhág or share in any bhágdárí or narwádárí village other than a recognized sub-division of such bhág or share, or the alienation, assignment, mortgaging, charging or incumbering of any homestead, building-site (gabhán), or premises appurtenant or appendant to any such bhág or share, or recognized sub-division separately or apart from such bhág or share or recognized sub-division; It is therefore enacted as follows:—

No portion of

1. No portion of a bhág or share in any bhágdárí or narwádárí village

other than a recognized sub-division of such bhág or share shall be liable to seizure, sequestration, attachment or sale by the process of any civil Court, and no process of such Court shall be enforced so as to cause the dismemberment from any such bhág or share or recognized sub-division thereof, of any homestead, building-site (gabhán) or premises appurtenant or appendant to such bhág or share or recognized sub-division thereof.

bhág in bhágdárí or narwádárí village to be liable to seizure, &c., by process of civil Court.

2. Whenever any process has issued out of any civil Court for the seizure, sequestration, attachment or sale of any portion of a bhág or share in any bhágdárí or narwádárí village other than a recognized sub-division of such bhág or share, or for the seizure, sequestration, attachment or sale of any homestead, building-site (gabhán) or premises appurtenant or appendant to such bhág or share or recognized sub-division thereof, it shall be lawful for the Collector or other chief revenue-officer of the district in which any such bhágdárí or narwádárí village is situated, although not a litigating party, to move in such civil Court that such process shall be set aside or quashed, and that the provisions of this Act be put in force;

On issue of such process, Collector may move that it be set aside or quashed.

and if such Court be of opinion, on the evidence adduced by the Collector or other chief revenue-officer of the district on such motion, that the case is one falling within this Act, it shall set aside or quash such process, and cause the provisions of this Act to be put in force; any order which the said Court may make on such motion shall be appealable in the same manner as a decree of the Court in which it is made.

Court to set aside process if case fall within Act.

3. It shall not be lawful to alienate, assign, mortgage or otherwise charge or incumber any portion of any bhág or share in any bhágdárí or narwádárí village other than a recognized sub-division of such bhág or share, or to alienate, assign, mortgage or otherwise charge or incumber any homestead, building-site (gabhán) or premises appurtenant or appendant to any such bhág or share or recognized sub-division, appurtenant or appendant thereto, apart or separately from any such bhág or share, or recognized sub-division thereof.

Bar to alienation, &c., of any portion of bhág in bhágdárí village other than recognized sub-division thereof.

Any alienation, assignment, mortgage, charge or incumbrance, contrary to the provisions of this section, shall be null and void; and it shall be lawful for the Collector or other chief revenue-officer of the district, whenever he shall, upon due inquiry, find that any person or persons is or are in possession of any portion of any bhág or share of any homestead, building-site (gabhán) or premises appurtenant or appendant to such bhág or share in any bhágdárí or narwádárí village other than a recognized sub-division of such bhág or share in violation of any of the provisions of this section, summarily to remove him or them from such possession, and to restore the possession to the person or persons whom the Collector shall deem to be entitled thereto;

Power to remove person in possession of portion of such bhág.

Limitation of suit on Collector's order.

and any suit brought to try the validity of any order or orders which the Collector may make in such matter, must be brought within three calendar months after the execution of such order or orders.

Issue and execution of process in other respects authorized by law not barred.

4. Nothing in this Act contained shall be construed as prohibiting the issue and execution of any such process as aforesaid against any bhág or share, or recognized sub-division of any bhág or share, in any such village as aforesaid, conjointly and in the gross with its homestead, building-site (gabhán) and other proper appurtenances, if the issue and execution of such process be in other respects authorized by law.

Alienation, &c, of bhág or share, as aforesaid, if in other respects warranted by law, not barred.

5. Nothing in this Act contained shall be construed as prohibiting the alienation, assignment, mortgaging, charging or incumbering any bhág or share, or recognized sub-division of any bhág or share, in any such village as aforesaid conjointly and in the gross with its homestead, building-site (gabhán) and other proper appurtenances, if such alienation, assignment, mortgage, charge or incumbrance be in other respects warranted by law, the object and intention of this Act being to prevent the dismemberment of bhágs or shares, or recognized sub-divisions thereof, in bhágdárí or narwádárí villages, and also to prevent the severance of homesteads, building-sites (gabhán) or other premises, appurtenant or appendant to bhágs or shares, or recognized sub-divisions of bhágs or shares from the same or any of them.

ACT No. VI of 1862.

Received the Governor General's assent on the 1st of September, 1862.

An Act for the amelioration of the condition of taluqdárs in the Ahmadábád collectorate, and for their relief from debt.

Preamble

WHEREAS the lands held in the zila of Ahmadábád in the Province of Gujarát under the title of taluqdárí estates are now only held on leasehold tenure determinable at the pleasure of Government; and whereas it has been brought to the notice of Government that many of the taluqdárs are in embarrassed circumstances and have borrowed money on the security of their landed estates; and whereas such of the said landed estates as are of the taluqdárí tenure aforesaid could not and cannot be lawfully charged, encumbered or alienated; and whereas it is expedient to enable the said taluqdárs to effect a settlement of their debts and liabilities; It is hereby enacted as follows:—

Power to make declaration vesting management of estates of

1. Whenever it shall appear to the Governor in Council that any taluqdár in the zila aforesaid is subject either personally or in respect of his landed estates of any description of tenure to debts or liabilities equal to or exceeding

five times the average rents, profits and other annual income derived by the taluqdár from his estates aforesaid during the previous five years after deducting thereout the land-tax and other dues of Government, it shall be lawful for the Governor in Council to make a declaration vesting the management of the said estates in an officer or officers who shall then be appointed by the Governor in Council in that behalf, and the said declaration shall be published in the *Bombay Government Gazette*.

taluqdár in officer appointed by Government.

2. From and after the publication of said declaration as aforesaid, all suits or judicial proceedings for or in respect of debt or liabilities in the first section above-mentioned, other than debts due or liabilities incurred to the Crown or Government, pending before or under appeal from any of the civil Courts in the said Presidency shall be, and are hereby declared to be, permanently stayed and no further prosecution thereof shall be permitted, and all writs, processes, executions or attachments for or in respect of such debts and liabilities shall forthwith cease and be raised.

After declaration, suits in respect of debts or liabilities in first section mentioned, other than debts to Government, to be permanently stayed.

3. From and after the publication of such declaration, the said officer or officers shall have power, without resorting to any civil Court, to remove from possession of the landed estates of the taluqdár of any description of tenure, or any part thereof, any mortgagee or other encumbrancer who may be in possession of the same, without prejudice to such mortgagee or encumbrancer bringing his claim under sections 8 and 9 before the officer or officers appointed for the management of the said estates.

Power to remove mortgagee or encumbrancer from possession of estates of taluqdár.

4. From and after the publication of such declaration as aforesaid, the taluqdár the subject of such declaration shall not be liable to arrest, nor shall his personal estates of any description whatsoever be liable to seizure, attachment or sale under any process, decree, judgment or execution of the civil Court of the Presidency of Bombay for or in respect of any debts or liabilities existing at the time of such declaration, other than debts due or liabilities incurred to the Crown or Government.

After declaration, taluqdár not liable to arrest in respect of debts other than debts due to Government.

5. From and after the publication of such declaration as aforesaid, the landed estates of such taluqdár of any description of tenure and the rents, profits and income thereof shall, during the period of the management thereof by the said officer or officers, be wholly exempt from seizure, attachment or sale under or by virtue of any process, decree, judgment or execution of any civil Court of the Presidency of Bombay for or in respect of the debts and liabilities aforesaid, other than debts due or liabilities incurred to the Crown or Government.

During management, estates exempt from civil process in respect of debts and liabilities aforesaid.

6. It shall be lawful for the Governor in Council to make rules for the purpose of carrying this Act into effect, and from time to time to alter, vary or amend such rules as necessity may arise.

Power to make and alter rules.

Managing officer to receive rents, profits and income;

and pay for support of taluqdár and family;

expenses of management; and settle debts and liabilities, in accordance with rules.

7. The said officer or officers shall, during the continuance of his or their management of the said estates, receive the whole of the rents, profits and income thereof, and shall defray thereout land-tax and other debts due or liabilities incurred, or hereafter respectively to grow due or to be incurred, to the Crown or Government, and pay to the taluqdár such annual sum only as shall appear to the Governor in Council requisite for the decent support of the taluqdár and his family, and any balance remaining after such payment as aforesaid shall be applied in discharge of the expenses of such management as aforesaid and in liquidation or settlement of the debts and liabilities to which at the time of the publication of the said declaration the taluqdár is subject, either personally or in respect of his landed estates of any description of tenure, in accordance with the rules alluded to in the last preceding section.

Managing officer to publish notice to claimants against taluqdár, to notify claims.

8. The said officer or officers shall publish in the *Bombay Government Gazette* a notice in English and Guzaráthí, calling upon all persons having claims against the said taluqdárs or their said landed estates in respect of any of the debts or liabilities aforesaid, to notify the same in writing to such officer or officers within three calendar months' time from the time of such notice in the Gazette, and the said officer or officers shall, before or contemporaneously with such publications in the Gazette, cause copies of such notice to be exhibited at the mámlatdárs' kachahrís in the said zila and in such place or places as to such officer or officers shall seem fit and as may be directed by the said rules.

Publication of copies of notice.

Debt or liability not notified to be barred.

9. Any debt or liability of the taluqdár other than as aforesaid, to which he is subject, either personally or in respect of the said landed estates, existing at the time of the said declaration by the Governor in Council not duly notified to the said officer or officers within the time and in the manner in the last preceding sections specified shall and is hereby declared to be for ever barred:

Upon proof of inability of claimant to comply, claim may be admitted within further period of 9 months.

Provided always that upon proof being given to the satisfaction of such officer or officers of the inability of the claimant to have complied with the provisions of this and the last preceding sections, it shall be lawful for the said officer or officers to entertain and admit such claim within the further period of nine calendar months from the expiration of the above-mentioned period of three months.

Scheme for settlement of taluqdár's debts and liabilities.

10. The said officer or officers shall as early as possible prepare and submit to the Governor in Council a scheme for the settlement of the taluqdár's debts and liabilities, and such scheme, when approved by the Governor in Council, shall be carried into effect.

The amount of any debt or liability as fixed in such approved scheme shall not be liable to increase. Amount of debt fixed in scheme not to be increased.

Any debt or liability disallowed by such officer or officers shall, if such disallowance be approved by Government, be and it is hereby declared to be for ever barred. Bar of debts disallowed.

11. It shall be lawful for the Governor in Council to empower the officer or officers aforesaid to raise a fund to be applied to the settlement of the debts and liabilities of the taluqdár by assigning the whole or a portion of his landed estates of any description of tenure to be held and enjoyed, for a period or periods not exceeding twenty years from the publication of the declaration aforesaid, by any fit person or persons who may advance money on the security thereof, or by the sale of such outlying portion or portions of the said estates as may appear expedient; but in case of such sale the consent of the taluqdár and of his next heir, if the latter be of age, shall first be obtained. Power to authorize raising of fund for settlement of debts and liabilities.

12. Any debt or liability, except as hereinbefore excepted, which may be incurred by the taluqdár, either personally or in respect to his said landed estates or any part thereof, during the period of such management as aforesaid, shall not be enforceable in any manner whatever, either during or subsequently to such period of management, against his said landed estates or any part thereof, and it shall not be competent for the taluqdár during the said period of management to charge, encumber, sell or alienate his said landed estates or any part thereof, and such charge, encumbrance, sale or alienation shall be null and void. Debt or liability incurred by taluqdár during management not enforceable against estates. Incompetency of taluqdár to charge or alienate.

13. It shall be lawful for every officer or officers appointed under this Act to demand and require the production of any writs, decrees, judgments, records, deeds, documents, exhibits, pleadings, books, accounts, letters, petitions, papers or writings filed in any of the suits mentioned in the second section of this Act, or relating to the debts or liabilities of any taluqdár whose landed estates are brought under such management as aforesaid, in the custody or control of any civil Court, or in the custody or control of any Judges, Judge, Assistant Judge, officer or person connected with such Court, and upon notice being given in writing by such officer or officers to such civil Court or to any Judges, Judge, Assistant Judge, officer or person connected therewith, such writs, decrees, judgments, records, deeds, documents, exhibits, pleadings, books, accounts, letters, petitions, papers or writings in the said notice mentioned shall be immediately given up to the said officer or officers appointed under this Act, in the manner directed by the said notice, any act, usage or custom to the contrary in anywise notwithstanding. Civil Courts to give up writs, decrees, papers, &c., when required.

Power to officer to take evidence, and compel production of books, &c.

14. It shall be lawful for any officer or officers appointed under this Act to summon witnesses and to take evidence, and it shall also be lawful for the said officer or officers to compel the production of books, accounts, papers, deeds or other documents, and to inflict a fine not exceeding rupees one hundred for disobedience to any sanad or order made under this section.

Powers of managing officer for realising rents and profits.

15. The officer or officers appointed for the management of the landed estates of any taluqdár under this Act shall have, for the purpose of the realization and recovery of the rents, profits and income of such landed estates, the same powers as a Collector possesses under the Regulations or Acts now or hereafter in force for the realization and recovery of land-revenue due to Government.

Management limited to twenty years, and at its expiration, claims, &c., to be considered settled.

16. The management of the landed estates of any taluqdár by such officer or officers as aforesaid shall not extend beyond the period of twenty years, to be calculated from the first publication of such declaration as aforesaid in the *Bombay Government Gazette*, and at the expiration of such management, whether before or at the end of such period of twenty years, all debts and liabilities (except as hereinbefore excepted) existing at the time of such declaration, and comprised in such approved scheme as aforesaid, shall be deemed to be for all intents and purposes whatsoever fully discharged and satisfied, and neither the taluqdár nor his heirs nor representatives, nor his, her nor their estates, whether moveable or immoveable, or any part thereof, shall be subject in any manner whatsoever to such debts or liabilities (except as hereinbefore excepted) or any part thereof.

Power to appoint new officers.

17. It shall be lawful for the Governor in Council from time to time to appoint new officers to carry this Act into effect, and all such officers shall have the same powers as the officer or officers first appointed.

Powers for enforcing payment of fines.

18. Officers appointed under this Act shall have the same powers for enforcing the payment of fines imposed under this Act as are given to Courts by section 307 of the Code of Criminal Procedure.[a]

Suits cognizable by civil Courts

19. Notwithstanding anything to the contrary in this Act, it shall be lawful for the civil Courts to entertain and dispose of suits relating to the succession to, or rights of coparcenary in, or rights of persons claiming maintenance out of, any landed estate or estates brought under the operation of this Act:

Indemnity to Crown, Government or managing officer.

provided always that neither the Crown nor Government, nor any officer or officers appointed under this Act, shall be liable to any suit for or in respect of any act or acts done in good faith by such officer or officers.

[a] See Act No X of 1872, schedule V.

Proprietorship of talukdár after termination of management.

20 From and after the expiration of the period of management of the estate of any talukdár, whether such period extend to, or be less than, twenty years, the talukdár shall be the absolute proprietor of his said landed estates as regards succession to, and possession, management and transfer of, the same, subject to such land-tax as the Governor in Council may be pleased to reserve and all usual remedies for the recovery thereof.

Interpretation-clause.

21. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say)—

(1) the term "civil Court" shall mean and include every Court of Civil Judicature in the Presidency of Bombay whether established by Royal Charter or not:*

(2) words importing the masculine gender shall include the feminine:

(3) words importing the singular number shall include the plural number, and

words importing the plural number shall include the singular number.

ACT No. I OF 1863.

Received the Governor's assent on the 27th of December, 1862, and the Governor General's assent on the 21st of January, 1863.

An Act for the registry of vessels and levy of pilotage-fees on the river Indus.

Preamble.

WHEREAS it is expedient to provide for the registry of vessels plying on the river Indus and its tidal channels within the Province of Sindh, and for the establishment of competent pilots, and for the levying of fees in respect of the same; It is enacted as follows:—

Vessels to be registered and marked with number, burthen and indication of place of registry.

1. Every vessel plying on the river Indus and its tidal channels within the Province of Sindh shall be registered by an officer appointed for the purpose, who shall be called the Registrar of boats, and every vessel so registered shall be marked or branded with a number, the registered burthen and a letter or letters indicating the place of registry.

Name, number, burthen,

2. The name and number and burthen of every vessel plying as aforesaid, and the name of the owner thereof, shall be registered in a book

* See Act No. XV of 1871, s. 26.

&c., to be registered.

kept for that purpose by the Registrar of boats; and whenever any change shall take place in the burthen of such vessel plying as aforesaid, or in the name or names of the owner thereof, such vessel shall be again registered.

Owner to apply for certificate of registry Renewal of lost certificate.

3. The owner of every vessel plying as aforesaid shall apply to the Registrar of boats and obtain from him a certificate of registry as aforesaid; and in the case of any certificate being lost or destroyed, a renewed certificate may be obtained in the same manner, and on the payment of the fees hereinafter mentioned.

Fees for registration.

4. The owner of every vessel registered as aforesaid shall annually or otherwise pay such fees as the Governor in Council may, from time to time, direct by notification in the Government Gazette.

Production of certificate of registration.

5. The owner or person in charge of every vessel plying as aforesaid shall produce, when required by any public officer, the certificate of registry of such vessel.

Penalty for infringement

6. In case any vessel plying as aforesaid shall not be registered, marked or branded, in all respects as hereinbefore directed; or

in case such vessel shall not be furnished with a proper certificate of registry; or

in case the owner or person in charge of such vessel shall not produce such certificate when required as aforesaid,

the owner or person in charge of such vessel shall, on conviction thereof before a Magistrate, Justice of the Peace or person exercising the powers of a Magistrate within the Province of Sindh, be liable to a fine not exceeding ten times the amount of the fees payable annually in respect of the registry of such vessel; which fine, if not paid, may be recovered by sale of such vessel, her furniture, ammunition, tackle and apparel.

Fees and fines aforesaid how applied

7. The sums realised from the fees and fines aforesaid shall be expended in removing obstructions from the channels of the river Indus, and in other ways improving the navigation of that river.

Establishment of pilots and pilot-boats to be maintained

8. There shall be maintained such establishment of pilots and pilot-boats, near the mouths of the river Indus, as the Commissioner in Sindh may, from time to time, direct.

Fees for vessels piloted

9. The person in charge of a vessel passing through any of the channels at the mouths of the river Indus, shall pay to the officer duly authorized by the Registrar of boats, such fee as the Governor in Council may, from time to time, direct by notification in the Government Gazette, and in consideration of such payment shall receive the services of a pilot.

Establishment at what places to be available

10. The establishment of pilots and pilot-boats shall, when necessary, be available at such place or places on the tidal channels between the port of Gizri and the river Indus, as the Commissioner in Sindh may, from time to time, direct.

Fees for vessels piloted through channels.

11. The person in charge of a vessel passing through any of the tidal channels aforesaid, shall pay to the officer duly authorized by the Registrar of boats, such fee as may, from time to time, be fixed under the provisions of section 9 of this Act; and in consideration of such payment shall receive the services of pilots.

Penalty for non-payment of fees.

12. In case the person in charge of such vessel as aforesaid shall refuse or neglect to pay the fee payable in respect of the pilotage of such vessels, such person shall, on conviction thereof before a Magistrate, Justice of the Peace or person exercising the powers of a Magistrate within the Province of Sindh, be liable to a fine not exceeding ten times the amount of the said fee; and such fine, if not paid, may be recovered by sale of such vessel, her furniture, ammunition, tackle and apparel.

Expenditure of fees and fines realised.

13. The sums realised from fees for pilotage and from fines for non-payment thereof, shall be applied, under the orders of the Commissioner in Sindh, towards the maintenance of an establishment of pilots and pilot-boats, the erection and maintenance of beacons, and generally as may best conduce to the safe passage of vessels through the mouths and tidal channels of the river Indus.

Account to be kept of monies received and expended.

14. An account shall be kept under the orders of the Commissioner in Sindh of all sums of money received and expended under the provisions of this Act; and a statement of the same shall be published every year in the Government Gazette.

Commissioner in Sindh to appoint and suspend persons and to make necessary rules.

15. It shall be lawful for the Commissioner in Sindh, with the sanction of the Governor in Council, from time to time, to appoint such person or persons, and to suspend and remove the same, and to make such rules as may be necessary for carrying out the provisions of this Act; provided that all such rules shall be notified in the Government Gazette.

16.—[*Repealed by Act No. XII of 1873.*]

Construction.

17. A barge or flat towed by a steamer, and plying in no other manner, shall not for the purposes of this Act be considered a vessel.

Interpretation-clause.

18. In the construction of this Act, unless where a contrary intention appears from the context—

words importing the singular number or masculine gender shall include several persons as well as one person, and bodies corporate as well as individuals, and several matters and things as well as one matter and thing, and females as well as males.

ACT No. II of 1863.

Received the Governor's assent on the 12th of February, 1863, and the Governor General's assent on the 14th of March, 1863.

An Act to facilitate the adjustment of unsettled claims to exemption from the payment of Government land-revenue, and to regulate the succession to, and transfer of, lands wholly or partially exempt from the payment of such revenue in those parts of the Bombay Presidency which are subject to the operation of Act XI of 1852 of the Legislative Council of India.[a]

Preamble.

WHEREAS it has been deemed expedient to provide for the final adjustment, summarily, of unsettled claims to exemption from the payment of land-revenue, and to fix the conditions which shall secure, in certain cases, the recognition of titles to such exemption with respect to succession and transfer in those districts of the Bombay Presidency to which the operation of Act XI of 1852 of the Legislative Council of India extends; It is hereby enacted as follows:—

Power to authorize and guarantee continuance in perpetuity of land to revenue-free holders on terms and conditions agreed to.

1. *First.*—When the holders of lands in any of the said districts (except as is excepted in clause second of this section), held either wholly or partially exempt from the payment of Government land-revenue, whose title to exemption has not yet been formally adjudicated, shall have consented to submit to the terms and conditions hereinafter described, in preference to being obliged to prove their title to the exemption enjoyed by them, it shall be lawful for the Governor in Council to finally authorize and guarantee the continuance, in perpetuity, of the said land to the said holders, their heirs and assigns, upon the said terms and subject to the said conditions.

Exceptions.

Second.—The excepted cases to which the authority of adjustment and guarantee vested in the Governor in Council by this provision shall not extend, are the cases of lands held as follows:—

1st, lands held under treaty:

2nd, lands granted or held as jágírs or saranjáms, or on similar political tenure:

3rd, lands held for service:

4th, lands already formally adjudicated to be not continuable hereditary.

Such lands (subject to enactments in section 3)

2. When the Governor in Council shall have finally authorized and guaranteed the continuance, in perpetuity, to the holders, their heirs and assigns,

[a] See Bombay Act No. IV of 1868, ss. 2, 7, 12, 21.

or lands wholly or partially exempt from the ordinary payment of annual land-revenue, whose title to exemption has not already been formally adjudicated, and who have dispensed with an inquiry into such title, the said lands shall (subject to the enactments contained in section 3 of this Act) be the heritable and transferable property of the said holders, their heirs and assigns, without restriction as to adoption, collateral succession or transfer; and such lands shall thenceforth be continued, in perpetuity, subject to an annual payment to Government. Such payment shall consist of—

to be heritable and transferable property of holders, and continued in perpetuity, subject to payment to Government of nazráná and quit-rent.

1st, a fixed annual payment as nazráná, in commutation of all claims of Government in respect of succession and transfer, and shall be calculated at the rate of one anna for each rupee of assessment:

2nd, of a quit-rent equal to one-fourth of the assessment:

The said assessment shall be ascertainable under the following rules:—

Rules for ascertaining amount of assessment.

Rule 1.—The assessment of lands other than those specified in Rule 2 shall, with respect to lands which have already been assessed by the revenue-survey now in progress, be the assessment already imposed upon those lands by that revenue-survey, and with respect to lands which have not yet been assessed by that revenue-survey shall be such assessment as shall be agreed on by the Collector or settling officer and the owner or holder of the lands, which shall be final;

and in failure of their agreement, it shall be the existing rental of the lands until the revenue-survey now in progress shall have placed a new assessment thereon, after which the assessment so placed by the said revenue-survey shall be understood to be the assessment.

And it shall be lawful for the duly authorized officers of Government employed in the said revenue-survey to enter upon all lands not heretofore assessed by such revenue-survey for the purpose of fixing and making an assessment thereof, provided no arrangement can be otherwise arrived at by the Collector and the owner or holder, as above provided, to ascertain the fair rental of the lands.

Rule 2.—The assessment of lands of such an exceptional character as not to be assessable under the revenue-survey rules shall be in the discretion of the revenue-officers of Government, which discretion shall be guided, so far as may be, by the rate at which similar land in the same district belonging to Government is let, due regard being had by the said revenue-officers to all equitable considerations affecting such lands.

Shares of the revenues of villages (such as amals) shall be assessed for the purposes of this Act at the value thereof, calculated at the average shown by such accounts of actual realizations by the holders as are forthcoming for the ten years immediately preceding the promulgation of these rules.

Rule 3.—Lands for which a júdí, salámí or other quit-rent or land-tax, under whatever denomination, is alrealy paid to Government, instead of being liable to only one-fourth of the assessment, shall, in addition to the annual amount of such júdí, salámí, quit-rent or other tax aforesaid, be liable to a further annual quit-rent, equal to one-fourth of the sum by which the annual or average annual amount of such júdí, salámí or other quit-rent or tax aforesaid may fall short of the assessment.

Rule 4.—Quit-rent and annual nazráná imposed under this section (section 2) and the rules thereunto annexed, shall be fixed in perpetuity, and shall not be liable to increase or decrease on any new assessment, save so far as is above in rule 1 of this section (section 2) provided to the contrary, in the case of lands which have not been already assessed by the revenue-survey now in progress.

Rule 5.—The whole of the exempt lands found in the possession of each holder shall be continued according to the provisions of this section (section 2) and the rules thereunto annexed, and subject to the enactments contained in section 3.

Adjustment, so far as right of Government to levy nazráná and quit-rent, binding on holder and rightful owner and assigns.

3. Any adjustment made by the Governor in Council with the holder of land held wholly or partially exempt from the payment of land-revenue, in accordance with section 2 of this Act and the rules annexed to the said section, shall, so far as the right of Government to levy the nazráná and the annual quit-rent mentioned in the said section is concerned, not only be binding upon such holder, his heirs and assigns, but also on the rightful owner, his heirs and assigns, whosoever such rightful owner may be:

Saving of rights and remedies of rightful owner, his heirs and assigns.

Provided always that the said rightful owner, his heirs and assigns shall not, by this Act or anything therein contained, be deprived of any rights or remedies to which he or they would be entitled against the said holder, his heirs or assigns, for the recovery of the said lands or any part thereof if this Act had not been passed;

and in the event of the rightful owner, his heirs or assigns recovering the said lands or any part thereof, from the said holder, his heirs or assigns, any declaration, guarantee or adjustment made by the Governor in Council under, or in accordance with, sections 1 and 2 of this Act and the rules annexed to the said section 2, with respect to the said lands while the same were in the possession of the said holder, shall accrue to the benefit of the said rightful owner, his heirs and assigns.

Such lands, so far as rights of Government concerned, to be recognised

4. Lands held partially or wholly exempt from the payment of land-revenue, and already formally adjudicated to be so continuable hereditarily in perpetuity, may at the option of the holder be henceforth recognised, so far as the rights of Government are concerned, as the heritable and also the trans-

ferable property, not only of the actual descendants of the person to whose descendants inheritance may have been limited by the terms of the said adjudication, but also of all his legal successors by inheritance, including heirs by collateral successions and heirs by adoption, and their assigns;

as heritable and transferable property of actual and legal successors by inheritance and heirs by adoption.

and hereafter the right of Government or its officers to question the title to possession, or to exemption from the payment of land-revenue, of any holder of the said land already so adjudicated to be heritable in perpetuity, on the ground that he does not belong to the family to which title is restricted by the adjudication, is hereby abrogated;

Lands adjudicated to be heritable to be held subject to payment of additional nazráná.

and in any case of recognition as in this section aforesaid, lands already adjudicated to be heritable and to which such recognition applies, are henceforth to be held subject to the payment to Government of an annual nazráná, calculated at the rate of one anna for each rupee of the assessment of the land, ascertainable as provided in the rules of section 2 of this Act, which nazráná is to be in addition to the partial assessment (if any) ordered by the terms of the formal adjudication under which the land has already been declared to be continuable:

Proviso.

Provided, however, that the assent of the holder of all lands adjudicated as aforesaid to the acceptance of such recognition and the payment of such nazráná as in this section as aforesaid shall be assumed, unless such holders shall within three (3) calendar months from the date on which this Act comes into operation decline to accept such recognition as aforesaid by a notice given in writing to the Collector of the district.

Provisions in respect of amount of nazráná when it exceeds ten rupees.

5. *First.*—When the amount of the annual nazráná payable for any holding in accordance with section 2 or section 4 of this Act, respectively, exceeds the sum of ten rupees, it shall be at the option of the holder of the land on account of which the said nazráná is declared payable, if he be not merely a mortgagee, to elect within two calendar months after service of a notice explaining the purport and effect of the rules contained in this section (section 5), which service shall be made in the same manner as is hereinafter provided for the service of the notice described in section 11 of this Act, that in lieu of the land being made subject to the payment of such annual nazráná, an occasional nazráná shall be payable at each change of possession thereof, or of any part thereof, by inheritance or transfer, the amount of which nazráná shall be—

Occasional nazráná.

(*a*) on every succession by inheritance, a nazráná equal to one year's assessment of the wholly or partially exempt lands which are the subject of such succession:

(*b*) on every transfer of lands wholly or partially exempt from the payment of land-revenue, a nazráná equal to two years' assessment of the land transferred.

The assessment shall be, in each case, ascertainable under the rules annexed to section 2 of this Act:

Proviso. Provided that in the event of more than one succession or transfer occurring within twelve months, such occasional nazráná or succession or transfer shall not be leviable more than once:

Proviso. Provided also that it shall be at the option of the holder of the land to pay such occasional nazráná in one sum or by annual instalments not exceeding one-fourth of the whole nazráná per annum.

Occasional nazráná from whom to be levied. *Second.*—When, at the election of the holder, lands wholly or partially exempt from the payment of land-revenue shall have been made liable to occasional nazráná leviable under this section (section 5), instead of to an annual nazráná of one anna in each rupee of the assessment as provided by sections 2 and 4 of this Act, the occasional nazráná shall be levied from each person obtaining possession of the land to which it is subject, whether by inheritance or transfer;

Person obtaining possession to give notice to Collector, &c. and it shall be the duty of that person, within the period of one calendar month after obtaining possession as aforesaid, to give notice in writing thereof to the Collector or other chief revenue-officer of the collectorate or district in which the said lands are situate; and in default of such notice, the person so obtaining possession shall forfeit, in addition to the nazráná leviable on the occasion, a sum equal to the amount thereof.

Holder of land paying occasional nazráná to give notice to Collector, &c., of transfer. *Third.*—It shall also be the duty of the holder of any land made subject under this section to the payment of occasional nazráná instead of to an annual nazráná of one anna in each rupee of the assessment, who shall transfer the same or any part thereof, to give to the Collector or chief revenue-officer of the collectorate or district in which the land[a] so transferred are situate, notice in writing of such transfer, and of the nature and extent thereof, and of the person or persons to whom the same is made, within one calendar month after such transfer has been made; and in default of such notice, the person or persons so transferring as aforesaid shall forfeit a sum equal to the amount of the nazráná leviable on the occasion from the person to whom the transfer shall have been made.

Holders asserting right to exemption may claim trial of, and adjudication upon, their title according to Act XI of 1852. 6. *First.*—When lands are held wholly or partially exempt from the payment of land-revenue, upon the title to which exemption there has not been any formal adjudication, the holders asserting a right to such exemption shall be at liberty, on the conditions hereinafter described, to claim a trial of, and adjudication upon, their title, according to Act XI of 1852, so far as the same is not altered, modified or superseded by, or inconsistent with, the provisions of this Act.

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[a] *Sic.* Read "lands."

Second.—In the event of the title to such exemption being upon such inquiry demanded as last aforesaid, duly established, the lands shall not be heritable in any other manner, or to any further extent than the same may, on such inquiry as last aforesaid, be adjudged to be heritable; nor shall any adoption be recognised in any civil Court or by any officer of Government, as creative of, or continuing, a title to claim from Government any exemption from assessment or any other privilege on account of the said lands; and no nazráná shall be received on account of Government from the holders of such lands. Effect of exemption being established.

And whensoever the same lands or any part thereof, either by operation of law, or by devolution, assignment, gift, sale (whether such sale be judicial, public or private), devise, transfer-deed or other instrument, or otherwise howsoever, pass to any person, not an heir by actual descent from the person to whose heirs the lands shall be declared heritable, or, in default of such declaration, from the person who may establish his title to exemption as last aforesaid, then the said lands, or such part thereof as may have so passed to any person other than the said actual descendants, shall forthwith become and be liable to payment of annual land-revenue at the full assessment.

Third.—In the event, upon such inquiry as aforesaid, of there being a failure by the holders to establish title to exemption from payment of land-revenue, the lands to which he has failed to establish such title shall forthwith become and be liable to payment of annual revenue at the full assessment. Effect of exemption not being established.

7. *First.*—When the holders of land, held wholly or partially exempt from the payment of land-revenue, demand a trial and adjudication of their title under the provisions of section 6 of this Act, they shall be required to furnish satisfactory security for the payment of the assessment of the land, in case of their failure to prove the title to exemption asserted by them; and in default of their furnishing such satisfactory security, the full assessment of the land which is to be the subject of inquiry shall be levied pending the adjudication. When holders demand trial and adjudication, security to be furnished.

Second.—If the inquiry result in the establishment of the asserted title, the holder, or, in the event of his decease, his heir who succeeds to possession of the said land, shall be entitled to a refund of any assessment levied under the provisions of this section, pending such inquiry as aforesaid, and to interest thereon at the rate of 5 per cent. per annum. Refund of assessment with interest if holder prove title.

Third.—If the result of the inquiry be that the holder fail to prove his title, the full amount of land-revenue assessable on the lands from the date of the holder's demand for trial shall be levied from the said holder and his security, or either, any sums levied pending adjudication as aforesaid being taken in account of the same. Full amount of land-revenue to be paid if holder fail to prove title.

8. *First.*—Lands held wholly or partially exempt from the payment of land-revenue on behalf of religious or charitable institutions, shall, if already Lands held on behalf of religious or

Charitable institutions

formally adjudicated to be permanently so continuable, be so continued wholly or partially exempt from such payment of land-revenue as aforesaid, according to the terms of the adjudication

Second.—Lands held on behalf of religious or charitable institutions, either wholly or partially exempt from the payment of land-revenue, shall, if not already formally adjudicated to be permanently so continuable, be declared to be so wholly or partially exempt from such payment of land-revenue as aforesaid; subject, however, to the payment of annual quit-rent equal to one-fourth of the assessment, which shall be ascertainable under the rules annexed to section 2 of this Act.

Third.—It is, however, hereby declared, that lands held on behalf of religious or charitable institutions, wholly or partially exempt from the payment of land-revenue, shall not be transferable from such institutions either by assignment, sale (whether such sale be judicial, public or private), gift, devise or otherwise howsoever, and no názráná shall be leviable on account of such lands.

Fourth.—If the holders, managers or trustees of such lands shall refuse to accept the terms provided by clause 2 of this section, and shall demand a trial and adjudication of the title by which the land is held wholly or partially exempt from land-revenue, they shall be entitled to the same, on the conditions described in section 7 and subject to the liabilities provided in section 6 of this Act.

Power to invest officers with authority of Inám Commissioners and their assistants

9 It shall be lawful for the Governor in Council to appoint officers to carry out the inquiries provided for in this Act in the districts in which Act XI of 1852 has the force of law, and to invest any officer so appointed with the authority conferred by the above Act on Inám Commissioners and Assistant Inám Commissioners

Burden of proof in cases of inquiries under section 6.

10 Whensoever any person or persons, holding lands wholly or partially exempt from the payment of land-revenue, upon the title to which exemption there has not been any formal adjudication, shall (whether such alleged title be founded on grant or prescription, or on any other ground whatsoever,) demand an inquiry under section 6 of this Act into such title, the burden of proof of such title shall, in every instance, lie and be cast exclusively upon the person or persons holding, or claiming to hold, such land so wholly or partially exempt from the payment of land-revenue as aforesaid, notwithstanding any existing usage, law, Regulation, Act or Statute in anywise to the contrary,

and it shall not be lawful for any civil Court to place the burden of proof upon Government, or upon the officer or officers representing Government, of a right to levy the ordinary land-revenue upon the lands the subject of any

such inquiry as aforesaid, and it shall in every instance be presumed, until the contrary is distinctly proved, that Government has the right to levy such ordinary land-revenue upon the lands the subject of any such inquiry as aforesaid.

It is, however, hereby further provided, that nothing in this section contained shall disentitle Government, or its duly authorized officers, to produce and give evidence in rebuttal or disproof of the alleged title to exemption aforesaid, if it seem to Government, or its duly authorized officers, desirable or necessary to produce and give such evidence.

Collector or other officer may serve notice on holder of lands, asking whether or not he demands inquiry under section 6.

11. *First.*—It shall be lawful for the Collector of each collectorate or district, or for any other officer of Government duly authorized in that behalf, whensoever such Collector or such other officer shall have reason to believe that lands are held wholly or partially exempt from payment of land-revenue, and that there has not been any formal adjudication upon the title to such exemption, to serve, or to cause to be served, a notice in writing, upon the holder of such lands, calling upon him to state whether or not he demands an inquiry under section 6 of this Act into such alleged title to exemption as aforesaid, instead of accepting and abiding by the terms described in section 2 of the same.

Language and form of notice.

Second.—The notice shall be in the prevailing language of the collectorate or district in which the lands are situate, and shall explain the nature of the alternatives offered on the part of Government.

On whom to be served.

Third.—It shall be served upon the person holding, or registered in the Government land-registers as holding, the lands wholly or partially exempt from the land-revenue as aforesaid, if he be resident within the limits of the collectorate.

Service on non-resident persons.

Fourth.—If such persons as last aforesaid be not resident within the collectorate, the notice shall be served upon any person acting for the aforesaid in respect of the lands.

Service when several persons hold lands jointly.

Fifth.—When more persons than one hold jointly, lands wholly or partially exempt from land-revenue, service of notice upon any one of them shall in every case be sufficient.

Service when holder known to reside in other collectorate.

Sixth.—If the holder be known to reside in another collectorate of the Bombay Presidency, and if there be no person acting for him in the collectorate in which the lands are situate, the notice shall be sent to the Collector of such other collectorate, and served or caused to be served by him.

When no person acts for holder, and holder

Seventh.—If there be not any person acting for the holder, and if he cannot be found, the notice shall be served upon some one of the actual occupants of the land (if any) and a copy of such notice shall be posted in the

cannot be found.

office of the chief Native revenue-officer of the district, and in the chauri or most public place in the village where the lands are situate.

Inquiry when sufficiency of service of notice disputed.

Eighth.—In the event of any dispute arising as to the sufficiency of the service of any notice or notices under this section, the matter so in dispute shall be inquired into by the Collector of the district or other officer appointed for the purpose by the Governor in Council, and the decision of the Collector or such other officer as aforesaid shall be final, and not open to appeal or question in any civil Court or elsewhere.

Holder making no answer for two months, deemed to have dispensed with inquiry.

Ninth.—If, within two calendar months after the service of such notice in manner aforesaid, the person holding the lands wholly or partially exempt from revenue as aforesaid, or his legally constituted agent, shall not give an answer in writing to such notice, stating clearly in such answer, that he demands an inquiry into the title to such exemption as aforesaid, he shall be deemed to have finally dispensed with such inquiry, and the lands, if held as aforesaid by an individual or individuals, shall be dealt with under sections 1 and 2 of this Act, and the rules annexed to said section 2, and if held on behalf of religious or charitable institutions, shall be dealt with under clause 2 of section 8 of this Act.

If no holder or owner discovered, land to be fully assessed.

But if no holder or owner can be discovered, the land shall be fully assessed to the public revenue, and shall continue to be so assessed unless some person shall, within the law of limitations, appear and prove his title to it.

Inquiry when sufficiency of answer to notice disputed.

Tenth.—In the event of any dispute arising as to the sufficiency of any such answer as last aforesaid, or as to its meaning, or as to its having been given within the time required by this Act, the matter so in dispute shall be inquired into by the Collector or other officer appointed for the purpose by the Governor in Council, and the decision of the Collector or such other officer as aforesaid shall be final, and not open to appeal or question in any civil Court or elsewhere.

After answer demanding inquiry, security to be taken.

Eleventh.—Whensoever an answer in writing is given by any holder or his agent demanding an inquiry under section 6 or clause 4 of section 8 of this Act, the Collector or other officer to whom such answer has been given shall take the security required in such cases by section 7 of this Act, or in default of the same being furnished, shall take such steps as shall be necessary for levying the full assessment of the land as required by the said section, and shall refer the holder's claim to the officer appointed by Government for the trial of such matters, who shall, with reasonable regard to the public convenience, and to the convenience of all persons interested or to be engaged in conducting such inquiry, fix a time at which it shall be proceeded with.

Claim to be referred to officer.

Time to be fixed

Claimant allowed benefit of evidence to

Twelfth.—Any claimant demanding an inquiry into his title shall be allowed the benefit of any evidence to be found in the records of the present or

any former Government, in custody of such public officer as is authorized by the British Government to have charge or custody of the same, and such public officer shall be bound to search for and to produce the same on application made to him.

be found in Government-records in custody of such public officer.

12. All notices and orders issued, and all settlements made, in the districts subject to the operation of Act XI of 1852, previous to the passing of this Act, for the purpose of carrying out its objects, shall be as valid and as binding on Government, and on the holders and owners of, and all persons interested in, lands affected by such notices, orders and settlements, as if this Act had been passed before the said notices and orders were issued, and the said settlements made, which shall accordingly be regarded and taken to have been made under this Act, all the provisions of which, as to the future rights, privileges and duties of the holders and owners of land to be brought under settlement by it, shall apply to the holders and owners of land already brought under settlement as aforesaid.

Notices and orders issued and settlements made prior to Act, for carrying out its objects, to be valid.

13. When any adjustment of a claim or claims to total or partial exemption from land-revenue has been made by the Governor in Council, or any duly authorized officer of Government, under the second, fifth or eighth sections of this Act, any appeal from or against the proceedings, orders or acts of the officers of Government engaged in making any such adjustment, shall be made to the Governor in Council, or to such officer or officers as may be appointed by the Governor in Council to take cognizance of such appeals, and shall not be recognizable by any other authority.

Appeal from proceedings of officers making adjustment to be made to Governor in Council.

14.—[*Repealed by Act No. X of 1876.*]

15. All quit-rents, nazránás, succession-duties, transfer-duties and forfeitures, payable under this Act, shall be levied in the manner in which ordinary land-revenue is now recoverable, and the claim of Government to such quit-rents and nazránás, and to all forfeitures provided by this Act, shall have precedence over any other debt, demand or claim whatsoever, whether in respect of mortgage, judgment, decree, execution or attachment or otherwise howsoever, against the lands, or the holder or holders thereof.

Quit-rents, nazránás, &c., how levied.

16. (*A*) Unless there be something in the subject or context of this Act repugnant to such construction—

Interpretation-clause.

words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number, and words importing the masculine gender shall include females.

Number.

Gender.

(*B*) the word "lands" shall, for the purposes of this Act, be understood to include villages, portions of villages, shares of the revenues thereof, and landed estate of every description:

"Lands."

(*C*) "political tenure" is tenure created from, or dependent upon, political considerations the existence of which shall be determined by the Government.

"Political tenure."

"Lands held for service."

(*D*) the phrase "lands held for service" shall include lands specially granted, or held or continued, nominally for the performance of service, whether that service be actually performed or not, and lands granted, held or continued, partly in consideration of past service, and partly for the performance of prospective service, but shall not include lands granted in consideration of past service only; and it is to be understood that Government shall be competent to determine any question that may arise in giving effect to this Act, as to whether or not any lands are lands held for service:

Formal adjudication.

(*E*) formal adjudication shall be held to mean final adjudication under any Regulation of the Bombay Government, or under Act XI of 1852, in cases to which the same were applicable, and in other cases final adjudication after inquiry by the British Government or some authorized officer thereof:

"Holder."

(*F*) for the purposes of this Act, the word "holder" shall be taken to signify the person who by himself, his tenants, sub-tenants or agents is in possession of the land held wholly or partially exempt from land-revenue-assessment, and shall include a mortgagee in possession as aforesaid:

"Transfer."

(*G*) the word "transfer" shall, for the purposes of this Act, be taken to mean the permanent alienation of land by assignment, gift, sale, deed or other instrument, or otherwise howsoever, and also mortgage of the same under which possession shall have passed or is to pass to the mortgagee.

ACT No. III of 1863.

Received the Governor's assent on the 4th of January, 1863, and the Governor General's assent on the 25th of March, 1863.

An Act for bringing under the Regulations and Acts of the Presidency of Bombay the territories of Sátára, certain villages and lapsed States in the collectorate of Sholápur and in the Southern Marátha Country, certain lands ceded to the Government of Bombay for railway-purposes, and the district of North Kánara, with the exception of the táluka Kundápur, and for excluding the village of Muchandi, pargana Jath, from the operation of the Regulations and Acts of the Presidency of Bombay.[a]

Preamble.

WHEREAS it is expedient for the better administration of justice in the

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[a] Repealed, in so far as it relates to the villages mentioned therein, by Act No. IV of 1868.

territory of Sátára that the collectorate should be brought under the Regulations and Acts of the Presidency of Bombay; and whereas certain villages which now belong to Government in Sholápur and the Southern Marátha Country have not yet been made subject to the operation of the general Regulations and Acts affecting the Bombay Presidency; and whereas lands in certain villages have been ceded by His Highness the Gáikwár and His Excellency the Nawáb of Sachín to the Government of Bombay for railway-purposes, and it is expedient that such lands should be made subject to the Regulations and Acts of the said Presidency; and whereas the district of North Kánara which formed a part of the Presidency of Fort Saint George has, with the exception of the táluka of Kundápur, been detached from that Presidency and annexed to the Presidency of Bombay, from the sixteenth day of April, 1862, and now forms part of the latter, and it is expedient that the district so transferred should be brought under the Regulations and Acts of the Presidency of Bombay; and whereas the village of Muchandi, pargana Jath, in the territory of Sátára, was inadvertently included in Act VI of 1842, by which certain villages in the Southern Marátha Country were brought under the operation of the Regulations and Acts of the Presidency of Bombay; It is hereby enacted as follows:—

Villages in Sátára rendered subject to Bombay laws.

1. The villages in the collectorate of Sátára as described in schedule A to this Act shall, from and after the first day of January, 1863, be subject to the Regulations and Acts which are or shall at any time hereafter be in force within the territories subject to the Presidency of Bombay.

Villages in Sholápur and in Southern Marátha Country rendered subject to Bombay laws.

2. The villages in the collectorate of Sholápur and in the Southern Marátha Country described in schedule B to this Act shall, from and after the passing of this Act, be subject to the Regulations and Acts which are or shall at any time hereafter be in force within the territories subject to the Presidency of Bombay.

3.—[*Repealed by Act No. X of 1876.*]

Privileges and exemptions of certain persons of rank.

4. *First.*—It is also further enacted that the privileges and exemptions provided in sections 3, 4 and 5, Regulation XXIX A. D. 1827, and section 5 of Regulation VII A. D. 1830, and Regulations I and XVI A. D. 1831, as amended by section 6, Act XIII of 1842, are equally applicable in the districts now brought under the Regulations and Acts to the persons of rank therein referred to, as they are in the Dekkhan, Khándesh and Southern Marátha Country.

Process against Shrímant Sagunábái Ái Sáheb Maháráj without con-

Second.—It is also further enacted that no writ or process shall be sued forth or prosecuted against the person, goods or property of Shrímant Sagunábái Ái Sáheb Maháráj, the only surviving widow of the late Rája of Sátára, except with the consent of the Governor in Council first obtained,

sent of Government, to be void.

such consent to be signified by the signature of one of the Secretaries to Government; and any writ or process sued forth or prosecuted against the person, goods or property of Shrímant Sagunábái Ái Sáheb Mahárái, and without such consent as aforesaid, shall be utterly null and void.

5, 6, 7.—[*Repealed by Act No. XV of 1874.*]

Village of Muchandi excluded from operation of Regulations and Acts.

8. The village of Muchandi, pargana Jath, in the territory of Sátára, included in Act VI of 1842, by which certain villages in the Southern Marátha Country were brought under the Regulations and Acts of the Presidency of Bombay shall, from and after the passing of this Act, be excluded from the operation of the Regulations and Acts of the Presidency of Bombay, anything in the said Act VI of 1842 to the contrary in any wise notwithstanding.

SCHEDULE A.

LIST of the PARGANÁS, TARAFS and other known DIVISIONS of the Collectorate of SÁTÁRA to be brought under the Regulations and Acts.

Consecutive numbers.	Names of the division
1	Taraf Sátára.
2	Taraf Parli.
3	Taraf Vandan.
4	Taraf Tárgaon, with the exception of the village Vátár entered in the accounts as belonging to the Chief of Jamkhandi.
5	Taraf Umraj, with exception of the following two villages :—
	1 Korti, entered in the accounts as belonging to the Pant Pratinidhi.
	2 Sirvada, entered in the accounts as belonging to the Chief of Jamkhandi.
6	Sammat Nimb.
7	Taraf Medha.
8	Taraf Kedamb.
9	Taraf Bárámura.
10	Taraf Kudál.
11	Taraf Átegaon.
12	Taraf Bámnoli.
13	Taraf Solsa.
14	Taraf Támb.

Consecutive numbers	Names of the division	
15	Karyát Náneghola	
16	Taraf Tárla	
17	Karyát Talbid	
18	Taraf Haveli Karád, with the exception of the following 12 villages —	
	1 Saidápui	Entered in the accounts as belonging to the Pant Pratinidhi.
	2 Kápil	
	3 Pádli	
	4 Belavda Varghát.	
	5 Dushera.	
	6 Gondi.	
	7 Ghonshi	
	8 Kodoli.	
	9 Vii vada.	
	10 Bichúd	
	11 Manu.	
	12 Retra Khurd.	Ditto to Sanglikar Pati ardhan.
19	Taraf Marli	
20	Taraf Pátan	
21	Taraf Helvák.	
22	Karyát Káshígaon.	
23	Taraf Kola	
24	Fort Sadáshivgad, Vasantgad and Manchindragad	
25	Karyát Ashta	
26	Taraf Khatáv	
27	Taraf Malavdi	
28	Taraf Dahigaon	
29	Taraf Mhasvad	
30	Taraf Lalgaon	
31	Forts of Machimángad, Várugad and Vardhangad	
32	Taraf Dharmpuri.	
33	Karyát Khánápur	
34	Karyát Máyni	
35	Karyát Vángi.	
36	Kaiyát Vita	
37	Kaiyát Bhálavni.	

Consecutive numbers.	Names of the division.

38 Karyát Nimsod.
39 Fort of Bhushangad.
40 Pargana Kásegaon, Táluka Pandharpur.
41 Pargana Brahmpuri, Táluka Pandharpur.
42 Pargana Sángola.
43 Pargana Gherdi.
44 Pargana Názra.
45 Pargana Aklúj.
46 Pargana Velápur.
47 Pargana Bhálavni, with the exception of the following five villages, entered in the accounts as belonging to the Chief of Akalkot:
1 Piliv.
2 Shenda Chinch.
3 Shingorni.
4 Dhánora.
5 Kusmáda.
48 Taraf Haveli Wái.
49 Taraf Jor Khora.
50 Sammat Koreygaon.
51 Sammat Vágholi.
52 Pargana Molvád.

The parts of the following parganás, situated in the collectorate of Sátára:

53 Pargana Bejápur.
54 Pargana Gota.
55 Pargana Baloti.
56 Pargana Sidhnáth.
57 Pargana Mamdápur.
58 Pargana Chimalgi.
59 Pargana Kolhár.
60 Pargana Honvad.
61 Pargana Bárdoli.
62 Pargana Shirála, with the exception of the village of Vátegaon, entered in the accounts as belonging to Chief of Kurundvád.
63 Pargana Átpádi, with the exception of the village Vitlápur, entered in the accounts as belonging to the Pant Pratinidhi.

Consecutive numbers.	Names of the division.

64 Pargana Mangalvedha.

65 Pargana Shirval, with the exception of the following villages, entered in the accounts as belonging to the Pant Sachiv :—

1 Shirval.
2 Bavda.
3 Kesurdi.
4 Párgaon.
5 Tondla
6 Sángvi.
7 Bháda.
8 Rui.
9 Yelka.
10 Kavtha.
11 Bhádavda.

The parts of the following tarafs, situated in the collectorate of Sátára :—

66 Taraf Sávarda.

67 Taraf Chiplún.

68 Taraf Válva, situated within the Sátára territory, with the exception of the village Kundal, entered in the accounts as belonging to the Pant Pratinidhi.

69 Taraf Várún.

70 Taraf Phaltan, excepting the villages of Dálvadi and Vákri, entered in the accounts as belonging to the Chief of Phaltan.

71 Taraf Velvand Khora.

72 Taraf Rohidkhora, with the exception of the village Hátnoshi, entered in the accounts as belonging to the Pant Sachiv.

73 Taraf Nírthadi, with the exception of the village Mirja, entered in the accounts as belonging to the Pant Sachiv.

The parts of the following Karyáts, situated within the collectorate of Sátára :—

74 Karyát Báji.
75 Do. Vadgaon.
76 Do. Haveli Kolhápur.
77 Do. Kodoli.
78 Do. Sátva.

Consecutive numbers.	Names of the division.
79	Karyát Bhilavdi, with the exception of the following four villages :—
	1 Nágrála.
	2 Bábvada.
	3 Ghogaon, and
	4 Tupári, entered in the accounts as belonging to the Chief of Sángli.
80	Karyát Sángli.
81	Karyát Dudhgaon, with the exception of Bhad Kinba, entered in the accounts as belonging to Sánglikar Patvardhan.
82	Karyát Aundh, with the exception of the following eight villages :—
	1 Rámápur. }
	2 Vyáhápur. }
	3 Saukira. } Entered in the accounts as belonging to
	4 Párgaon. } the Pant Pratinidhi.
	5 Sirasgaon. }
	6 Chikhalvohol. }
	7 Aundh. }
	8 Karla. Ditto as belonging to the Chief of Akalkot.
83	Karyát Tásgaon.
84	Do. Visapur, with the exception of the following four villages, entered in the accounts as belonging to the Chief of Sángli :—
	1 Álta.
	2 Sírgaon.
	3 Nimb.
	4 Audhali.
85	Karyát Anjni.
86	Do. Ráybág.
87	That part of Pránt Panhála situated within the collectorate of Sátára.

SCHEDULE B.

LIST of VILLAGES in the COLLECTORATE of SHOLÁPUR to be brought under the Regulations and Acts.

1. All the villages of pargana Kurkamb, táluka Mádha, situated in the

collectorate of Sholápur, and not brought under the Regulations by Regulation XXIX of 1827, namely :—

1 Maujé Pehnúr.
2 „ Bhend.
3 „ Bhatumbra.
4 „ Yevti.
5 „ Akumba.
6 „ Bembla.
7 „ Támbva, and
8 Kasba Karkamb.

2. All the villages of the Naldurg pargana, táluka Sholápur, situated in the collectorate of Sholápur, remaining to be brought under the Regulations, and not entered in Act VI of 1842, namely :—

Maujé Tadvála.

3. All the villages of the Chánd Kavtha pargana, táluka Hippargi, situated in the collectorate of Sholápur, not brought under the Regulations by Act VI of 1842, namely :—

Maujé Ankalgi.

4. The whole of pargana Chimalgi, táluka Mangoli, not brought under the Regulations by Regulation XXIX of 1827, namely :—

1 Kasba Chimalgi.
2 Maujé Almati.
3 „ Vandal.
4 „ Biraldini.
5 „ Budni.
6 „ Hunshál.
7 „ Nágvád.
8 „ Akalvádi.
9 „ Arsangi.
10 „ Benál.
11 „ Angadgiri.
12 „ Hangargi.
13 „ Uni Bhávi, and
14 „ Gudhini.

All the villages of the Nidgundi pargana not brought under the Regulations by Regulation VII of 1830, and Act VI of 1842 :—

1 Areshankar.
2 Vadvadgi.

LIST of VILLAGES in the SOUTHERN MARÁTHA COUNTRY to be brought under the Regulations and Acts.

1. The following villages in taraf Mugal Khod :—
   - Maujé Gundevádi.
   - „ Dharúr.
   - „ Siddápur.
   - „ Kolijúd.
   - „ Yebarhatti.
   - „ Hárogeri.
   - „ Hídkal.
   - „ Mugal Khod.
   - „ Pálbhávi.
   - „ Kappalgudi.
   - „ Hallúr.
   - „ Sivápur.
   - „ Khán Náikinhatti.
   - „ Mudalgi.
   - „ Munál.

2. The following villages in Pránt Miraj :—
   1. Maujé Soni. } Karyát Mané.
   2. „ Bhos. } Rájuri.
   3. „ Bisúr. } Karyát Sángli.
   4. „ Kúpváda. }
   5. „ Haroli, Karyát Dessing.
   6. „ Yerandoli. } Karyát Bedag.
   7. „ Belavki. }
   8. „ Árvandé, Karyát Sávardé.
   9. „ Vadgaon, Karyát Ánjni.
   10. „ Kalombi, Karyát Haveli.
   11. „ Shedshál, Karyát Shirhatti.
   12. „ Pándegaon, Karyát Kavtha Mahánkál.
   13. „ Kasba Tásgaon. } Karyát Tásgaon.
   14. „ Maujé Turchi. }
   15. „ Pádli. }
   16. „ Bhilavdi. }
   17. „ Vasgada, Karyát Kavtha.
   18. „ Nimni.

3. The following villages in Pránt Kágal :—
   1. Maujé Ánkli, Karyát Mánjri.
   2. „ Burli, Karyát Digraj.

4. The following villages in Pránt Ráybág :—
   1 Kasba Ainápur, Karyát Ainápur.
   2 Maujé Hatnoli, Karyát Nándura.
5. The following village in Pránt Hukeri :—
   1 Maujé Mangávatti, Karyát Jugal.
6. The following villages in Pránt Bijápur :—
   1 Maujé Shirhatti. } Karyát Kokatnúr.
   2 „ Nágnúr. }
   3 „ Ratnápur. }
   4 „ Shivdi. }
   5 „ Haliyál. }

The following village in pargana Kokatnúr :—
   1 Maujé Mhaisvádgi.

7. Pargana Yádvád with the exception of the three following villages :—
   1 Aurvád.
   2 Kalligudi.
   3 Chippalkatti.

Entered in the accounts as belonging to the Chief of Jamkhandi.

8. Karyát Kinní.
9. The following village in taraf Kánnúr :—
   1 Maujé Chikk Tarsi, Karyát Kánnúr.
10. The following village in pargana Sháhápur :—
   1 Ashta.
11. The following villages in Karyát Sávarda :—
   1 Kasba Sávarda.
   2 Maujé Londa.
   3 „ Dorli.
12. The following villages in taraf Phutgaon :—
   1 Kasba Sávlaj.
   2 Maujé Dongarsáni.
   3 „ Karavli.
13. The following village in taraf Tásgaon :—
   1 Maujé Punadi.
14. The following village in Karyát Dudhgaon :—
   1 Maujé Borgaon.
15. The following village in Karyát Digráj :—
   1 Maujé Borgaon.
16. The following village in Pránt Karád :—
   1, Maujé Yelávi.

17. The following village in Karyát Uchgaon :—
    1 Maujé Belgundi.
18. The following village in Karyát Kágti :—
    1 Maujé Kangráli Khurd.
19. The following village in taraf Sámbra :—
    1 Maujé Nilji.
20. The following village in pargana Ázamnagar :—
    1 Khásbág.
21. The following isolated villages :—
    1 Kasba Shedbál.
    2 „ Jugal.
    3 Maujé Kágvád.
    4 „ Ugar Budrukh.
    5 „ Murgundi.
    6 „ Távsi.
    7 „ Nándgaon.
22. The following villages in pargana Lakshmeshvar :—
    1 Maujé Kalas.
    2 „ Surngi.
    3 „ Konhigeri.
    4 „ Vadvi.
    5 „ Bijúr.
    6 „ Kankápur.
    7 „ Kondikop.
    8 „ Konerikop.
23. The following villages in pargana Mulgund :—
    1 Maujé Mulgund.
    2 „ Sherul.
    3 „ Kabuláyat Katti.
    4 „ Hartbi.
    5 „ Chinchli.
    6 „ Kallúr.
    7 „ Chaklabbi.
    8 „ Hirenarti.
    9 „ Yergupi.
    10 „ Náráyanpur.
    11 „ Nágarhalli.
    12 „ Mantúr.
    13 „ Keresúr.
    14 „ Hebsúr.

15 Maujé Karlvád.
16 „ Kuratti.
17 „ Chikk Narti.

24. The following village in Karyát Ingalhalli :—
Maujé Ingalhalli.

25. The following villages in pargana Nargund :—
1 Maujé Nargund.
2 „ Bairanhatti.
3 „ Dandápur.
4 „ Karvinkop.
5 „ Jagápur.
6 „ Maujepeth.
7 „ Arbaun.
8 „ Somápur.
9 „ Burlkatti.
10 „ Siddápur.
11 „ Chikk Nargund.
12 „ Kankikop.
13 „ Hálgop.

26. The following villages in pargana Navalgund :—
1 Maujé Kuregovankop.
2 „ Hunrikatti.

27. The following villages in Karyát Shirol :—
1 Maujé Shirol.
2 „ Vadvatti.
3 „ Ingalgundi.
4 „ Kalas.
5 „ Lingadhál.
6 „ Budihál.

28. The following villages in taraf Konnúr :—
1 Maujé Konnúr.
2 „ Árlikatti.
3 „ Lakmápur.
4 „ Gunakop.
5 „ Chikk Molangi.
6 „ Hira Tadsi.
7 „ Vásina.
8 „ Idgal.
9 „ Mádhági.
10 „ Bennúr.

11 Maujé Ajgundi
12 „ Bennúr
13 „ Talakvád
14 „ Hotiholli
15 „ Lingadhál

29 The following villages in pargana Badámi —
1 Maujé Megúr
2 „ Karámudi

30 The following village in Máhál Hoskerri —
1 Khanikop.

31 The isolated villages of Behatti and Sangdál.

ACT No V OF 1863

Received the Governor's assent on the 21st of March, 1863, and the Governor General's assent on the 21st of April, 1863

An Act to confer certain powers on the Bombay Gas Company, Limited, and to enable Government to confer similar powers on other Companies registered and incorporated for the purpose of manufacturing and supplying gas

Preamble

WHEREAS a Joint Stock Company has been lately formed for the purpose of introducing gas-works into the Presidency of Bombay, which Company has been completely registered in England under the "Joint Stock Companies' Acts, 1856 and 1857," with limited liability, and has duly obtained a certificate of incorporation under the name of "The Bombay Gas Company, Limited" and whereas the said Company is about to erect gas-works in the suburbs of Bombay, and is engaged in the preparation of apparatus and materials for the manufacture and supply of gas, and also in the business of gas-fitters in the Presidency of Bombay

and whereas it is expedient that powers and facilities should be given to the said Company to enable them to carry out their undertaking of lighting with gas the town and suburbs of Bombay, which powers and facilities may hereafter be extended to the operations of the said Company in other towns and places within or subject to the Presidency of Bombay, and to other Companies which are or may hereafter be registered and incorporated for the purpose of manufacturing and supplying gas, It is enacted as follows —

Power to break up streets &c under super

1 In the town and suburbs of Bombay and in any other town or place to which the provisions of this Act may hereafter be extended, by an order or orders or permission of the Governor in Council, the Bombay Gas Company

Limited, under such superintendence as is hereinafter specified, may open and break up the soil and pavement of the several streets and bridges, and may open and break up any sewers, drains or tunnels within or under such streets and bridges, and lay down and place within the same limits, pipes, conduits, service-pipes and other works, and from time to time repair, alter or remove the same, and also make any sewers that may be necessary for carrying off the washings and waste-liquids which may arise in the making of the gas; and, for the purposes aforesaid, may remove and use all earth and materials in and under such streets and bridges; Superintendence, and to open drains.

and the Company may in and on such streets and bridges erect any pillars, lamps and other works, and do all other acts which the said Company shall from time to time deem necessary for supplying gas to the inhabitants of the said town and suburbs of Bombay, or other town or place as aforesaid, doing as little damage as may be in the execution of the powers hereby granted, and making compensation for any damage which may be done in the execution of such powers.

2. Provided always, that nothing herein shall authorize or empower the said Company to lay down or place any pipe or other works into, through or against, any building or in any land not dedicated to public use, without the consent of the owners and occupiers thereof, except that the said Company may at any time enter upon and lay or place any new pipe in the place of any existing pipe in any land wherein any pipe hath been already lawfully laid down or placed in pursuance of this Act, and may repair or alter any pipe so laid down. Not to enter on private land without consent.

3. Before the said Company proceed to open or break up any street, bridge, sewer, drain or tunnel, they shall give to the municipal commissioners for the town of Bombay, or other persons under whose control or management the same may be, or to their clerk, surveyor or other officer, notice in writing of their intention to open or break up the same, not less than three clear days before beginning such work; except in cases of emergency arising from defects in any of the pipes or other works, and then so soon as is possible after the beginning of the works, or the necessity for the same shall have arisen. Notice to be served on persons having control, &c., before breaking up streets or opening drains.

4. No such street, bridge, sewer, drain or tunnel shall, except in the cases of emergency aforesaid, be opened or broken up, except under the superintendence of the persons having the control or management thereof, or of their officers, and according to such plan as shall be approved of by such persons, or their officers, or in case of any difference respecting such plan, then according to such plan as shall be determined by a Magistrate; and a Magistrate may, on the application of the persons having the control or management of any such sewer or drain, or their officer, require the said Company to make such Streets or drains not to be broken up except under superintendence of persons having control of same.

temporary or other works as they may think necessary for guarding against any interruption of the drainage during the execution of any works, which interfere with any such sewer or drain :

If persons having control, &c., fail to superintend, Company may proceed.

Provided always, that if the persons having such control or management as aforesaid, and their officer, fail to attend at the time fixed for the opening of any such street, bridge, sewer, drain or tunnel, after having had such notice of the said Company's intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the said Company may perform the work specified in such notice without the superintendence of such persons or their officer.

Streets broken up to be re-instated without delay.

5. When the said Company open or break up the road or pavement of any street or bridge, or any sewer, drain or tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill-in the ground, and re-instate and make good the road or pavement, or the sewer, drain or tunnel, so opened or broken up, and carry away the rubbish occasioned thereby ; and shall at all times, whilst any such road or pavement shall be so opened or broken up, cause the same to be fenced and guarded, and shall cause a light, sufficient for the warning of passengers, to be set-up and maintained against or near such road or pavement where the same shall be open or broken up, every night during which the same shall be continued open or broken up ; and shall keep the road or pavement which has been so broken up in good repair for three months after replacing and making good the same.

Penalty for opening or breaking up street without notice, &c.,

6. If the said Company open or break up any street or bridge, or any sewer, drain or tunnel, without giving such notice as aforesaid, or in a manner different from that which shall have been approved of or determined as aforesaid, or without making such temporary or other works as aforesaid, when so required, except in the cases in which the said Company are hereby authorized to perform such works without any superintendence or notice ; or

delay in re-instating streets, &c.,

if the said Company make any delay in completing any such work, or in filling in the ground, or re-instating and making good the road or pavement, or the sewer, drain or tunnel, so opened or broken up, or in carrying away the rubbish occasioned thereby ; or

neglect to fence and light, &c.

if they neglect to cause the place where such road or pavement has been broken up to be fenced, guarded and lighted, or neglect to keep the road or pavement in repair for the space of three months next after the same shall have been made good,

they shall forfeit to the persons having the control or management of the street, bridge, sewer, drain or tunnel in respect of which such default is made, a sum not exceeding fifty rupees for every such offence, and they shall forfeit an additional sum not exceeding fifty rupees for each day during which any

such delay as aforesaid shall continue after they shall have received notice thereof.

In case of delay, persons concerned may re-instate and recover expenses.

7. If any such delay or omission as aforesaid take place, the persons having the control or management of the street, bridge, sewer, drain or tunnel in respect of which such delay or omission shall take place, may cause the work so delayed or omitted to be executed, and the expense of executing the same shall be repaid to such persons by the said Company; and the amount of such expense shall in case of any dispute about the same be ascertained and recovered in Bombay and in any other town or place subject to the jurisdiction of any of Her Majesty's High Courts of Judicature, in the manner in which expenses are ascertained and recovered under Act XIV of 1856, and in any town or place not within the jurisdiction of any of Her Majesty's High Courts of Judicature, in the same manner as damages are recoverable under this Act.

Expense how ascertained and recovered.

Power to enter buildings for ascertaining quantity of gas consumed.

8. The clerk, engineer or other officer duly appointed for the purpose by the said Company may at all reasonable times enter any buildings, or place lighted with gas supplied by the said Company, in order to inspect the meters, fittings and works for regulating the supply of gas, and for the purpose of ascertaining the quantity of gas consumed or supplied;

Penalty for hindering.

and if any person hinder such officer as aforesaid from entering and making such inspection as aforesaid, at any reasonable time, he shall, for every such offence, forfeit to the said Company a sum not exceeding fifty rupees.

Recovery of rents due for gas.

9. If any person supplied with gas, or any person to whom any meter or fitting shall have been let for hire by the said Company, neglect to pay the rent due for the same to the said Company, the said Company may stop the gas from entering the premises of such person by cutting off the service-pipes or by such means as the said Company shall think fit, and the said Company may recover the rent due from such person, together with the expense of cutting off the gas, by proceeding before a Magistrate, or by action or plaint in any Court of competent jurisdiction.

Power to remove pipes when supply of gas discontinued.

10. In all cases in which the said Company are authorized to cut off and take away the supply of gas from any house or building or premises under the provisions of this Act, the said Company, their agents or workmen, after giving twenty-four hours previous notice to the occupier, may enter into any such house, building or premises, between the hours of nine in the forenoon and four in the afternoon, and recover and carry away any pipe, meter, fittings or other works, the property of the said Company.

Meters, &c., not liable to distraint for rent.

11. Any pipe, meter, fitting or other work let for hire by the said Company shall not be subject to distress for rent or revenue, or any rate or tax due upon the premises where the same may be used, nor be taken in execution

under any process of any Court whatsoever, or in or under any proceeding in bankruptcy or insolvency, against the person in whose possession or power the same may be.

Penalty for fraudulently using gas.

12. Every person who shall lay, or cause to be laid, any pipe to communicate with, or who shall derive gas directly or indirectly from, any pipe belonging to the said Company, without their consent, or

who shall fraudulently injure or tamper with any such pipe, meter, fitting or other work as aforesaid, or

who in case the gas supplied by the said Company is not ascertained by meter, shall use any burner other than such as has been provided or approved of by the said Company, or of larger dimensions than he has contracted to pay for, or shall keep the lights burning for a longer time than he has contracted to pay for, or shall otherwise improperly use or burn the gas, or shall supply any other person with any part of the gas supplied to him by the said Company,

shall, in addition to the amount firstly due to the Company for gas supplied, forfeit to the said Company the sum of fifty rupees for every such offence, and also the sum of twenty rupees for every day every such offence shall have been continued or repeated, and the said Company may take off the gas from the house and premises of the person so offending, notwithstanding any contract which may have been previously entered into, and shall not be liable to any action or suit for so doing.

Penalty for wilfully damaging pipe.

13. Every person who shall wilfully remove, destroy or damage any pipe, pillar, post, plug, lamp or other work of the said Company for supplying gas, or who shall wilfully extinguish any of the public lamps or lights, or waste or improperly use any of the gas supplied by the said Company, shall for each such offence forfeit to the said Company any sum not exceeding fifty rupees in addition to the amount of the damage done.

Satisfaction for accidentally damaging pipe.

14. Every person who shall carelessly or accidently break, throw down or damage any pipe, pillar or lamp belonging to the said Company or under their control, shall pay to the Company such sum of money by way of satisfaction, not exceeding the amount of the damage done, as any Magistrate shall think reasonable.

Penalty for causing water to be corrupted.

15. If the said Company shall at any time cause or suffer to be brought or to flow into any stream, reservoir, aqueduct, pond or place for water, or into any drain communicating therewith, any washing or other substance produced in making or supplying gas, or shall wilfully do any act connected with the making or supplying of gas, whereby the water in any such stream, reservoir, aqueduct, pond or place for water shall be fouled, the said Company shall forfeit for every such offence a sum not exceeding one thousand rupees.

And they shall forfeit an additional sum not exceeding five hundred rupees for each day during which such washing or other substance shall be brought or shall flow, or the act by which such water shall be fouled, shall continue after the expiration of twenty-four hours from the time when notice of the offence shall have been served on the said Company by the person into whose water such washing or other substance shall be brought or shall flow, or whose water shall be fouled thereby. Daily penalty during continuance of offence.

16. Whenever any gas shall escape from any pipe laid down or set up by or belonging to the said Company, they shall immediately after receiving notice thereof in writing prevent such gas from escaping, and in case the said Company shall not within twenty-four hours next after service of such notice, effectually prevent the gas from escaping, and wholly remove the cause of complaint, they shall, for every such offence, forfeit the sum of fifty rupees for each day during which the gas shall be suffered to escape after the expiration of twenty-four hours from the service of such notice. Daily penalty during escape of gas after notice.

17. Whenever any water shall be fouled by the gas of the said Company, they shall forfeit to the person whose water shall be so fouled for every such offence a sum not exceeding five hundred rupees, and a further sum not exceeding one hundred rupees for each day during which the offence shall continue after the expiration of twenty-four hours from the service of notice of such offence. Penalty if water be fouled by gas.

18. For the purpose of ascertaining whether such water be fouled by the gas of the said Company, the person to whom the water supposed to be fouled shall belong may dig up the ground and examine the pipes, conduits and works of the said Company; provided that such person before proceeding so to dig and examine shall give twenty-four hours' notice in writing to the said Company of the time at which such digging and examination is intended to take place, and shall give the like notice to the persons having the control or management of the road, pavement or place where such digging is to take place, and they shall be subject to the like obligation of re-instating the said road and pavement, and the same penalties for delay, or any nonfeasance or misfeasance therein, as are hereinbefore provided with respect to roads and pavements broken up by the said Company for the purpose of laying their pipes; and provided further that the officers or other persons acting on behalf of the Company may be present at such digging and examination as aforesaid. Power to examine gas-pipes to ascertain cause of water being fouled.

19. If upon any such examination, it appear that such water has been fouled by any gas belonging to the said Company, the expenses of the digging, examination and repair of the street or place disturbed in any such examination shall be paid by the said Company, but if upon such examination it appear Expenses by whom to be borne.

that the water has not been fouled by the gas of the said Company, the person causing such examination to be made shall pay all such expenses, and shall also make good to the said Company any injury, which may be occasioned to their works by such examination.

How ascertained.

20. The amount of the expenses of every such examination and repair and of any injury done to the said Company shall in case of any dispute about the same, together with the costs of ascertaining and recovering the same, be ascertained and recovered in the manner prescribed for the ascertainment and recovery of expenses in section 7 of this Act.

Liability to indictment for nuisance.

21. Nothing in this Act contained shall prevent the said Company from being liable to an indictment for nuisance, or to any other legal proceedings to which they may be liable, in consequence of making or supplying gas.

Copies of memorandum and articles of association and of regulations, &c., to be kept for inspection—

22. Copies of the memorandum and articles of association of the said Company and of every other instrument registered under the said "Joint Stock Companies Acts 1856 and 1857" as constituting the regulations of the said Company, and a copy of every special resolution of a general meeting whereby any change shall have been, or at any time shall be, made in the regulations of the said Company, shall be kept at the office of the said Company in Bombay, and shall there be open to the inspection of all persons during the usual hours of business of the said office;

at office of Company in Bombay,

and copies of such memorandum and articles of association and of every other such instrument, and of every special resolution as aforesaid, shall also be deposited by the said Company as soon as it can be done after the passing of this Act, or after the making of any such special resolution hereafter to be made, in the Bombay Secretariat and also in the office of the Registrar of Joint Stock Companies, or if there be no such officer, in the office of the person having the custody of the records of the High Court of Judicature at Bombay, and shall there be filed;

in Secretariat, and office of Registrar of Joint Stock Companies.

and an examined copy of any such filed copy as aforesaid, certified by and under the hand of the Registrar of Joint Stock Companies, or of the person having the custody of the records of the said High Court, shall be good and sufficient evidence of such memorandum or articles of association, instrument or special resolution, in all actions, suits and proceedings whatsoever, whether civil or criminal, to be had in any Court of justice, whether established by Royal Charter or not, or before any Magistrate or revenue or other officer, and whether acting judicially, or in any proceeding preliminary to a judicial inquiry throughout the territories within or subject to the Presidency of Bombay.

Copy to be evidence.

Service of process on Company

23. All services of mesne or other process, and all notices whatsoever, which by law or by the practice of any Court wherein the said Company shall sue or be sued, are required to be made, served or given for any purpose what-

soever to the said Company, shall and may be made, served and given, in addition to all ways and means by which the same may otherwise be legally made, served and given, by leaving the same addressed to the managing agent of the said Company at the office in Bombay of the said Company.

Recovery of penalties, &c.

24. Any penalties and forfeitures imposed by this Act and any damages and expenses the recovery of which is not hereinbefore specially provided for, may respectively be recovered to the amount of fifty rupees by summary proceeding before a Magistrate.

Levy by distress.

25. All penalties, forfeitures, damages and expenses adjudged due under this Act, if the amount be not otherwise paid, may be levied by distress and sale of the goods and chattels of the party liable to pay the same, and the surplus arising from such goods and chattels after satisfying such amount and the expenses of the distress and sale shall be returned on demand to the party whose goods shall have been distrained, or instead of proceeding by distress and sale, or in case of failure to realize by distress the whole or any part of any penalties, forfeitures, damages or expenses imposed or incurred under the provisions of this Act, the person claiming such penalty, forfeiture, damage or expenses may sue the person liable to pay the same in any Court of competent jurisdiction.

No distress unlawful for want of form, &c.

26. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress or other proceeding relating thereto, nor shall any such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him, but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

Power to extend Act to other places and Companies.

27. It shall be lawful for the Governor in Council by an order to be published in the *Bombay Government Gazette* to extend the provisions of this Act to any other town or place within or subject to the Presidency of Bombay, and also to any other Joint Stock Company which may hereafter be formed for the purpose of manufacturing and supplying gas and which may have been completely registered according to law.

Interpretation.

28. The following words and expressions used in this Act shall have meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say)—

Number.

words importing the singular number only shall include the plural number, and words importing the plural number only shall include also the singular number:

Gender.

words importing the masculine gender shall include females:

"Person."

the word "person" shall include a corporation whether aggregate or sole:

"Street." the word "street" shall include any public passage or place, and any road, square, court, alley, highway, lane, gully or passage, whether a thoroughfare or not, over which the public have a right of way, and also the roadway over any public or railway-bridge or causeway, and over the approaches thereto:

'Magistrate." the word "Magistrate" shall include any Magistrate of Police, and any other person lawfully exercising the power of Magistrate acting at or for the place or district where the matter requiring the cognizance of any such Magistrate arises:

"Town and suburbs of Bombay" the expression "town and suburbs of Bombay" mentioned in this Act comprise whatever has been hitherto included within the limits generally known as the Islands of Bombay and Kolába, together with all land or ground now or which may be hereafter reclaimed from the sea or harbour.

ACT No. VI of 1863.

Received the Governor's assent on the 8th of April, 1863, and the Governor General's assent on the 23rd of May, 1863.

An Act for the regulation of public conveyances in the town, suburbs and harbour of Bombay.

Preamble. WHEREAS it is expedient that arrangements be made for the better regulation and control of public conveyances plying for hire for the conveyance of persons or goods within the town, suburbs and harbour of Bombay, and for the conduct of the licensees, drivers or other attendants of such public conveyances; It is hereby enacted as follows:—

Definition of public conveyance. 1. Every carriage with two or more wheels which shall be used for the purpose of plying for hire within the jurisdiction of the Commissioner of Police of Bombay, of whatever form or construction, or by whatever number of horses or other animals the same shall be drawn, and every pálkí which shall be let for hire, shall be deemed and taken to be a public land-conveyance;

and every boat or other vessel carrying passengers for hire within the said jurisdiction, whatever be the means by which the same may be propelled, shall be deemed and taken to be a public water-conveyance within the meaning of this Act.

No person to use or let for hire conveyance not licensed. 2. No person shall keep or let for hire any public conveyance within the said jurisdiction, without having a license in force for the same, granted, in the case of a land-conveyance by the Commissioner of Police, and in the case of a water-conveyance by the Master Attendant,

nor if such conveyance be ordmarily let for hire for periods of less than one whole day, unless there be painted or branded on such parts of the said conveyance as the Commissioner of Police or Master Attendant may respectively direct a number corresponding with that of the license granted for such conveyance, together in the case of a land-conveyance licensed to carry passengers, with the number of passengers it is licensed to carry, as follows:— or not numbered.

"Licensed to carry ( ) passengers only;"

nor unless a board or plate inscribed with such list of rates of fares, and affixed in such manner, as the Commissioner of Police or Master Attendant may respectively direct, be attached to such conveyance; or not having list of fares.

and any person keeping or letting for hire any public conveyance without such license as aforesaid, or without such number or inscription being legibly painted or branded thereon, or without such list of rates of fare being attached thereto, shall be liable, on conviction before a Magistrate of Police, to a penalty not exceeding rupees one hundred, or to simple imprisonment for a period not exceeding three months. Penalty for contravention.

3. No attendant of any public land-conveyance shall ply for hire or demand or receive any fare for the conveyance of any passenger unless he shall have received a license from the Commissioner of Police, and a metal-badge bearing the number of such license, which badge he shall be bound to wear on a conspicuous part of his dress at all times when he may be so plying for hire or pursuing his occupation as such attendant, No attendant of public land-conveyance to ply without license and badge.

and if any attendant who shall not have received a license and badge shall demand or receive any money from any passenger, Penalty for contravention.

or if any licensed attendant shall fail to wear the badge aforesaid as in this section directed,

or if he shall permit any other person to wear his badge,

he shall for each such offence be punishable, on conviction before a Police Magistrate, with a fine not exceeding rupees twenty, in default of payment of such fine shall be liable to simple imprisonment for a period not exceeding one month:

Provided that every person other than the licensed attendant who wears the badge is presumed to wear it with the licensed attendant's permission. Proviso.

4. Every license shall contain and specify Contents of license.

the full name and address of the licensee,

the number and class of conveyance for which the license has been issued,

the number of horses or other animals by which the conveyance shall be drawn, or the number of persons composing the crew,

the number of passengers such conveyance is licensed to carry, and whether

it be licensed to ply for hire on fixed stands only or to take up passengers on any and what roads or places, and between any and what points,

the date on which such license was granted, and that on which it will by efflux of time lapse and expire.

Notice to be given of change of residence.

5. As often as any licensee shall change his residence, he shall give notice thereof in writing signed by himself to the Commissioner of Police, or the Master Attendant, as the case may be, and in failure to give that notice for one week after his change of residence, he shall be liable to a penalty of rupees twenty.

Commissioner of Police and Master Attendant may grant licenses for public conveyances.

6. Licenses issued under section 2 of this Act shall usually be granted on the first January in each year, but the Commissioner of Police or Master Attendant may, at any other time, grant licenses, and shall always at the time of granting every license, and at all other times when necessary, cause to be painted or branded upon a conspicuous part of every such public conveyance, such number and inscription as are required by section 2 :

Provided that the said Commissioner of Police or Master Attendant may, in his discretion, refuse to grant any such license for any conveyance which he may consider to be insufficiently found or otherwise unfit for the conveyance of the public, or to any applicant whom he may consider, from youth, bad character or for other reason, unfit to be entrusted with the same.

Fees for licenses

7. For every such license there shall be levied a fee in accordance with the class of license granted, as shown in the following scale :—

omnibuses and other vehicles on four wheels to be drawn by two or more horses, and licensed to carry more than six persons including the driver, rupees 9 :

omnibuses, shigrams and other vehicles on four wheels, licensed to carry not more than six persons, including the driver, whether drawn by one or more horses, 1 rupee :

buggies, cabs or similar vehicles, on two wheels, licensed to carry three persons only, including the driver, 8 annas :

bullock-carts on two or more wheels drawn by two bullocks and licensed to carry five persons, including the driver, 4 annas :

bullock-carts on two wheels, drawn by two bullocks and licensed to carry three persons, including the driver, 4 annas :

pálkí, 4 annas per year :

bandar-boats and ferry-boats, 1 rupee :

dingís, 8 annas :

tonís or canoes, 2 annas :

labour-carts to carry goods only, 4 annas.

The balance of such fees, after all necessary contingent expenses shall have

been defrayed, shall, from time to time, be paid into the Bank of Bombay by the Commissioner of Police to the credit of the municipal commissioners of Bombay, and by the Master Attendant to the credit of the Port-fund:

Proviso. Provided that nothing in section 2 shall be held to prevent cargo-boats licensed under Act VIII of 1878 from carrying so many passengers for hire as the chief officer of customs may in the license permit.

Licenses to be renewed annually. **8.** The Commissioner of Police and Master Attendant shall, on or as soon as possible after the first day of January in each year, renew the licenses and numbers of the said public conveyances on payment of the regulated fee by the licensee:

Proviso. Provided that nothing herein contained shall prevent the Commissioner of Police or Master Attendant from altering or changing the number of any such conveyance, or from refusing absolutely to renew the license of any conveyance, which he may consider to be insufficiently found, or otherwise unfit for its intended purpose, or the owner of which he may consider unfit to be entrusted with such renewed license.

Power of Commissioner of Police and Master Attendant to suspend or revoke licenses. **9.** In the event of any such licensed public conveyance being at any time insufficiently found or appointed, or

of any driver or attendant of any such public conveyance appearing unfit to be trusted with the charge of the same, or

of such conveyance being used for passengers when licensed only for labour,

the Commissioner of Police or Master Attendant may, in his discretion, suspend or revoke the license, and order the number of such conveyance to be erased;

Penalty for plying after suspension of license. and the owner of any conveyance, the license of which shall have been suspended, or the number of which shall have been ordered to be erased, as aforesaid, who shall again permit the same to ply for hire before he shall have obtained a restoration or renewal of such license from the Commissioner of Police or Master Attendant, and affixed a corresponding number and inscription to such conveyance, shall, on conviction before a Magistrate of Police, be liable to the penalty prescribed by section 2 of this Act for keeping or letting for hire an unlicensed public conveyance.

Suspended or revoked licenses to be returned to Commissioner of Police or Master Attendant. **10.** All licenses which shall have been suspended or revoked by the Commissioner of Police or Master Attendant under the authority of the preceding section, shall be delivered up to the said Commissioner of Police or Master Attendant by the licensee within twenty-four hours after the suspension or revocation thereof, under penalty, on conviction before a Magistrate of Police, of a fine of rupees twenty, failing payment of which the licensee shall be liable to simple imprisonment for a period not exceeding two months.

Issue of duplicate of license lost, mislaid or defaced.

11. Duplicate licenses may be granted by the Commissioner of Police or Master Attendant on proof of the license granted for any public conveyance having been lost or mislaid, or of the particulars written in such license having been accidentally obliterated or defaced;

Power to renew license or restore inscription. Fee for renewed license.

and the said Commissioner of Police or Master Attendant may also renew or restore the numbers or inscriptions on public conveyances which shall have become obliterated; a fee equal to one-half the fee leviable under section 7 being previously paid for each license or number renewed or restored under this section, or under section 8 of this Act.

Licenses not transferable without sanction endorsed thereon.

12. Licenses issued under this Act may be transferred by or on account of the licensee to any other person, with the sanction of the Commissioner of Police or Master Attendant respectively, such sanction being duly endorsed on the reverse of such license;

Responsibility of transferee of license.

and all responsibilities of the original licensee after such sanction endorsed as aforesaid shall attach to the transferee:

Effect of transfer without sanction.

Provided that any transfer without such sanction endorsed shall forthwith render the license null and void.

Registers to be kept.

13. The Commissioner of Police and Master Attendant shall keep registers containing the full particulars of each public conveyance as entered in the license thereof,

Penalty for misuse of license.

and any person using or authorizing the use of a license, number or inscription, other than for the particular conveyance for which it has been issued, as apparent from the register, shall be liable, on conviction before a Magistrate of Police, to a fine not exceeding rupees one hundred, or, in default of payment of such fine, to simple imprisonment for a period not exceeding three months.

Power to make rules.

14. The Commissioner of Police may, subject to the approval of the Governor in Council, make and publish subsidiary rules not inconsistent with the provisions of this Act for promoting the objects of the same and for the better regulation of public land-conveyances,

Rates of fares to be fixed.

and the said Commissioner of Police shall, from time to time, fix the rates for the fare or hire of such public land-conveyances, specifying whether the hire or fare be for the whole conveyance or for one or more passengers,

Stands to be appointed.

and shall from time to time appoint stands or places at which stands and places alone such public conveyances may stand to ply for hire;

Rates and stands to be published.

and the rate so settled, and stands or places so appointed shall, when sanctioned by the Governor of Bombay in Council, be published in the *Bombay Government Gazette*, and shall thereafter, or until such rates and places shall be again altered by the authorities as aforesaid, be held and taken to be legally fixed and appointed; the Master Attendant having the same power, subject to the same restrictions, over public water-conveyances

as the Commissioner of Police has by this section over public land-conveyances.

Penalty for carrying passengers in excess or otherwise violating condition of license.

15. Any licensee, driver or other attendant of any public conveyance, who shall suffer or permit more passengers to be carried by the same than it is licensed to carry, or shall, in any other way, infringe or violate any of the conditions of his license, shall be liable, on conviction before a Magistrate of Police, to a fine not exceeding fifty rupees, or, in default of payment of such fine, to simple imprisonment for a period not exceeding two months.

Penalty for concealing number or preventing person taking note thereof.

16. If any licensee, driver or other attendant of any public conveyance shall permit or suffer the number or inscription thereof to be in any manner or by any means concealed from public view, or if any such licensee, driver or other attendant as aforesaid shall, in any way, attempt to prevent or obstruct any person taking or noting the number of such public conveyance, he shall, on conviction before a Magistrate of Police, forfeit for every such offence rupees twenty, or, in default of payment of such fine, be liable to simple imprisonment for a period not exceeding two months.

Penalty for permitting person to ride in public conveyance without consent of hirers.

17. If the licensee, driver or other attendant of any public conveyance, the whole of which has been hired or taken by one or more persons, shall permit or suffer any person to ride or be carried in, upon or about, such public conveyance, without the express consent of the person or persons hiring the same, such licensee, driver or other attendant shall, for every such offence, on conviction before a Magistrate of Police, forfeit a sum not exceeding rupees twenty, or, in default of payment of such forfeit, be liable to imprisonment as prescribed in the last preceding section.

Drivers, &c., to carry list of fares, &c.

18. Every licensee, driver or other attendant in charge of any public conveyance shall have with him, when plying for hire, a clean and legible list in English and such vernacular language or languages as the Commissioner of Police or Master Attendant may order, bearing the name in full of the licensee, and showing the rates and fares fixed and appointed to be taken for the fare or hire of his conveyance, with an abstract of the laws relating to public conveyances, and shall, on demand, produce the same for the information of any hirer of, or passenger by, such public conveyance, under penalty, on conviction before a Magistrate of Police, of a fine not exceeding rupees twenty, and in default of payment of such fine, he shall be liable to simple imprisonment for a period not exceeding two months.

To produce same on demand.

Lists of rates and fares, &c., to be prepared in offices of Commissioner and Master

19. The above lists, as also lists of the rates and fares fixed and appointed for public conveyances, and of the stands or places at which the same ply for hire, with an abstract of the law relating to such conveyances and to the licensees and attendants thereof, shall be prepared in the offices of the

Attendant, and issued to applicants.

Commissioner of Police and Master Attendant, and shall be issued to all applicants on payment of a fee of four annas for each copy.

Penalty for refusing to give way to private conveyance or obstructing driver of other public conveyance

20. If any driver or other attendant of any public conveyance shall refuse or neglect to give way, if he conveniently can, to any private conveyance, or shall obstruct or hinder the driver or other attendant of any other public conveyance, in taking up or setting down any person into or from any any such other public conveyance, every such driver or other attendant so offending shall, on conviction before a Magistrate of Police, forfeit a sum not exceeding rupees twenty, or, in default of payment of such forfeit, be liable to simple imprisonment for a period not exceeding two months.

Penalty on drivers, &c., for intoxication, &c.

21. Every driver and other attendant of any public conveyance who shall at any time during such employment be intoxicated, or who shall refuse to obey the reasonable orders of the person or persons hiring or using his conveyance, or shall, when plying for hire, keep the inside of his conveyance dirty, shall, on conviction before a Magistrate of Police, be liable to a fine not exceeding rupees twenty, and in default of payment thereof shall be liable to imprisonment as prescribed in the last preceding section.

Penalty for refusing fare, loitering, demanding excess fare, and plying for hire off public stands.

22. If the driver or other attendant of any public conveyance plying for hire, not being a labour-cart,

shall demand prepayment of his fare, or

shall refuse to convey any person desirous of hiring his conveyance, or

shall refuse or delay to proceed with reasonable expedition, or

shall exact or demand for the hire thereof more than the regulated sum, or

shall stand to ply for hire at any place or places other than the stands or places appointed for that purpose,

he shall, for every such offence, on conviction before a Magistrate of Police, forfeit a sum not exceeding rupees twenty, and in default of payment of the same shall be liable to simple imprisonment for a period not exceeding two months.

Arrest in case of hurt or damage, negligently or wilfully occasioned.

23. The driver or other attendant of any public conveyance who shall by negligence or misconduct cause any hurt or damage, may be arrested by any person who shall see such offence committed, and be by him made over to a constable or Police-officer for arraignment before a Magistrate of Police,

Compensation in addition to punishment.

and in addition to such punishment as may thereupon be inflicted under the law in that case made and provided, the offender shall pay such reasonable compensation to the complainant as such Magistrate shall see fit to award, and in default of payment thereof shall be liable to simple imprisonment for a period not exceeding six months.

24. In case of any dispute the hirer of a public conveyance may require the driver or other attendant thereof, and the driver or attendant may require the hirer thereof, to proceed forthwith to the nearest Police Court, where the dispute shall be determined by the Magistrate then sitting.

In cases of disputes, driver or hirer may be required to proceed to Police Court, or to nearest European Police-officer.

Should such Police Court be closed, either party may require the other to proceed to the nearest European Police-officer, who shall, if necessary, arrange for the hearing of the complaint at the next sitting of the Court;

but if the dispute or complaint take place at a landing-pier or a railway-station, and the hirer be about forthwith to leave the island of Bombay, it shall be competent to the said European Police-officer, after hearing both parties, to determine what sum may be due by the hirer, and to demand and receive the same, together with, in the case of any sum due for compensation under section 29 of this Act, an additional sum of rupees ten, on payment of which such Police-officer, having taken the name and address of the hirer and permitted him to depart, shall thereupon make a report of the dispute or complaint, and deliver the money received by him, to a Magistrate of Police, who, if the claim or complaint of the driver or attendant shall not have been excessive or unjust, may award and pay to the said driver or attendant the amount thereof, not being in excess of the total amount received and delivered by the Police-officer;

but if any offence shall appear to have been committed against the hirer by the driver or attendant, the owner and driver or attendant shall have no claim to hire or compensation, and the Police Magistrate shall likewise inquire into such offence, and on proof of the same shall adjudge punishment or otherwise proceed according to law, and in either case the Magistrate of Police, having given notice to such hirer, shall on demand return to him the sum paid by such hirer to the Police-officer, or such surplus as may remain thereof.

25. Every licensee of any public conveyance under this Act shall be bound, whenever required by a Police-officer to do so, to cause the same to ply for hire, and every driver or attendant shall, when so required, continue to exercise his calling in the customary manner,

Licensee bound, when required by Police-officer, to ply for hire.

and for any refusal or failure to comply with such requisition without reasonable cause proved, such licensee, driver or attendant shall be liable, on conviction before a Magistrate of Police, to a fine not exceeding rupees fifty.

Penalty for refusal.

26. When any information or complaint shall be made before any Magistrate of Police against the driver or other attendant of any public conveyance, for any offence committed by him, in the exercise of his vocation, against any of the provisions of this Act, such Magistrate of Police may forthwith and from time to time summon the licensee of such public conveyance to appear and produce such driver or other attendant to answer such information or complaint;

On information of offence, licensee may be summoned to produce driver, &c.

Penalty for default.

and if any such licensee shall neglect or refuse personally to appear or to produce such driver or other attendant according to such summons, without a reasonable excuse, to be allowed by the Magistrate of Police before whom he ought to appear according to such summons, he shall be liable to fine not exceeding rupees fifty, and it shall be lawful for such Magistrate to hear and determine the said information or complaint in the absence of the said licensee, driver or other such attendant as aforesaid, and upon satisfactory proof of such offence, to give judgment against such person for the penalty incurred by reason of such offence.

Proceeding *ex parte*.

Fines and awards how levied.

27. Pecuniary fines, penalties or awards levied, imposed or made under this Act, for which no commutation by imprisonment is herein provided, may be levied by distraint and sale of the offender's moveable property, under warrant of the Police Magistrate who has inflicted the punishment, and if any driver or other attendant shall fail to pay any fine, penalty or award for which commutation by imprisonment shall not have been awarded, the same may be levied by distraint and sale of the moveable property of the licensee of the public conveyance of which the offender was an attendant.

And in cases wherein imprisonment shall have been adjudged in commutation, the offender shall at any time be released upon paying such proportion of the fine as shall equal the proportion of his whole term of imprisonment still unexpired.

Penalty for refusing to pay legal fare.

28. If any person shall refuse or omit to pay to the driver or other attendant of any public conveyance the lawful fare due to him for the hire or fare of such public conveyance, it shall be lawful for any Magistrate of Police, upon complaint of the same being preferred, and upon proof of the facts made upon oath or solemn affirmation before him, to award reasonable satisfaction to the party so complaining for his fare, and also a reasonable compensation for his loss of time in attending to make and establish his complaint, and, in default of payment, to sentence the defaulter to simple imprisonment for a period not exceeding one month.

Compensation to driver.

Penalty for injury to public conveyance.

29. If any person using a public conveyance under this Act shall wilfully or negligently injure the same, he shall be liable, on conviction before a Magistrate of Police, to a fine not exceeding twenty rupees, and shall also pay to the owner of the public conveyance compensation for the injury, the amount of the compensation to be fixed by the Magistrate and to be recovered as a fine.

Compensation.

Magistrate may award compensation to driver in case of

30. If the driver or other attendant of any public conveyance not having previously offered his conveyance for hire to the person desirous of hiring it shall, in civil and explicit terms, declare to such person that his conveyance is actually hired, and shall afterwards, notwithstanding his reply, be proceeded

against for his refusal to carry such person in his said conveyance, and shall upon the hearing of the complaint produce sufficient evidence to prove that such conveyance was at the time actually and *bonâ fide* hired, and it shall not appear that he used any uncivil language, or that he had offered his conveyance for hire to, or improperly conducted himself towards, the party by whom he shall be so proceeded against, or groundless complaint.

if the person who has proceeded against him shall not appear to prosecute his complaint,

the Magistrate before whom such driver or other attendant shall be brought may order such person to make the driver or other attendant such compensation for his loss of time in attending to make his defence to such complaint as the Magistrate may deem reasonable, and, in default of payment, may sentence him to simple imprisonment for a period not exceeding one month.

31. All property left in any public conveyance licensed under this Act shall be forthwith deposited by the driver or attendant, as the case may be, in the office of the Commissioner of Police. Property left in public conveyance to be deposited.

Such property shall be returned to the person who shall prove to the Commissioner of Police that the same belonged to him, on payment of all expenses reasonably incurred, and of such reasonable sum to the driver or attendant as the Commissioner of Police may award, Restoration to owner.

and any driver or other attendant of any public conveyance licensed under this Act, who shall neglect so to deposit all property left in a public conveyance, shall be liable, on conviction before a Magistrate of Police, to a fine not exceeding rupees fifty, and in default of payment of the same to simple imprisonment for one month, or to both. Penalty for not depositing.

32. Any Police-officer or constable may arrest without a warrant any person committing in his view any offence against this Act, and may seize and detain in any place of safety until judgment shall be given in the case, any conveyance which, for the better fulfilment of the true intent and meaning of this Act, it may be necessary so to seize and detain. Police may arrest, without warrant, person offending in his view, and may seize and detain public conveyance when necessary.

33.—[*Repealed by Act No. XII of 1873.*]

34. The provisions of this Act may be extended to any town or place in the Presidency of Bombay, by an order to that effect of the Governor in Council published in the Government Gazette not less than thirty days before such extension. Power to extend Act.

And it shall be lawful in any such case for the Governor in Council to alter the scale, and dispose of the balance, of fees as may seem necessary, and to appoint any person to perform the duties by this Act assigned to the Commissioner of Police and Master Attendant, and to empower all or any Magistrates To alter scale, and dispose of balance, of fees.

having jurisdiction at the place, to exercise the powers by this Act conferred on the Magistrates of Police, and any such order may be in like manner revoked or altered.

Convictions under Act final

35. No conviction under this Act by any Magistrate of Police or Magistrate contemplated in the above section, shall be open to appeal or reversal by any other Court.

Construction.

36. Attendants on public conveyances licensed under this Act, include drivers, conductors, hamáls, tándels, sarhangs and boatmen.

Words expressed in the singular number shall be held to include the plural.

Extent

37. The town and suburbs of Bombay mentioned in this Act comprise whatever has been hitherto included within the limits generally known as the Islands of Bombay and Kolába, together with all land or ground now or which may hereafter be reclaimed from the sea or harbour.

ACT No. VII OF 1863.

Received the Governor's assent on the 15th of April, 1863, and the Governor General's assent on the 8th of June, 1863.

An Act for the summary settlement of claims to exemption from the payment of Government land-revenue, and for regulating the terms upon which such exemption shall be recognized in future, in those parts of the Bombay Presidency which are not subject to the operation of Act XI of 1852 of the Council of India.

Preamble.

WHEREAS in districts which are not subject to the operation of Act XI of 1852, it is expedient to provide, with certain exceptions, for the summary settlement of all claims to hold land, wholly or partially exempt from payment of land-revenue, and for regulating the terms on which such exemption shall be recognized in future so as to preclude all doubt in regard to the relative rights of Government, and the holders of such lands, and further to make provision for the exceptions aforesaid; It is hereby enacted:—

1.—[*Repealed by Act No. XII of 1873.*]

Power to authorize and guarantee continuance, in perpetuity, of land in certain districts to

2. *First.*—When the holders of lands in any of the said districts (except as is excepted in clause 2 of this section), held either wholly or partially exempt from the payment of Government-land-revenue, shall consent to the terms and conditions hereinafter described, in preference to being obliged to prove their title to the exemption enjoyed by them, it shall

be lawful for the Governor in Council to finally authorize and guarantee by sanad the continuance, in perpetuity, of the said land to the said holders, their heirs and assigns, upon the said terms, and subject to the said conditions. holders on terms and conditions agreed to.

Second.—The excepted cases to which the authority of adjustment and guarantee vested in the Governor in Council by this provision shall not extend, are as follows:— Exceptions.

1st—lands held under treaty:

2nd—lands granted or held as saranjám, or on a similar political tenure:

3rd—lands held for service:

4th—lands already formally adjudicated to be not continuable hereditarily.

Third.—*1st*—Lands held under treaty shall continue to be held according to the terms of such treaty. Future tenure of lands included in exceptions.

2nd.—Lands granted or held as saranjám, or on similar political tenure, shall be resumable or continuable in such manner, and on such terms, as Government, on political considerations, may, from time to time, see fit to determine.

3rd.—Lands held for service shall be resumable or continuable under such general rules as Government may think proper, from time to time, to lay down.

4th.—Lands already formally adjudicated to be not continuable hereditarily, shall continue to be held according to the decision passed in each case.

Fourth.—[*Repealed by Act No. X of 1876.*]

3. This Act shall not apply to lands which, in villages held on taluqdárí, bhágdárí, narwádárí, khotí or other similar tenure, may have been partially or wholly alienated by the present or former holders of the said villages or by any one of them; and in the event of the management of such villages being at any time resumed by Government, all land so alienated shall revert to Government unaffected by the acts of the holders or any of them, so far as the public revenue is concerned, but without prejudice in other respects to the rights of individuals. Lands to which Act does not apply.

4, 5.—[*Repealed by Bombay Act No. V of 1879.*]

6. When the Governor in Council shall, under clause 1 of section 2, finally authorize and guarantee the continuance, in perpetuity, to the holders, their heirs and assigns, of land wholly or partially exempt from the ordinary payment of annual land-revenue, the said lands shall (subject to the enactments contained in section 7 of this Act) be the heritable and transferable property Lands continued under section 2, clause 1, to be heritable and transferable property of holders.

subject to fixed annual payment to Government.

of the said holders, their heirs and assigns, without restriction as to adoption, collateral succession or transfer; and such lands shall thenceforth be continued, in perpetuity, subject to a fixed annual payment to Government, calculated at the rate of two annas for each rupee of the assessment, which assessment shall be ascertainable under the following rules:

Rules for ascertaining amount of assessment.

Rule 1.—The assessment of lands other than those specified in rule 2 shall, with respect to lands which have already been assessed by the revenue-survey now in progress, be the assessment already imposed upon those lands by that revenue-survey, and with respect to lands which have not yet been assessed by that revenue-survey, shall be such assessment as shall be agreed on by the Collector or settling officer and the owner or holder of the lands, which shall be final: and in failure of their agreement, it shall be the existing rental of the lands until the revenue-survey now in progress shall have placed a new assessment thereon, after which the assessment so placed by the said revenue-survey shall be understood to be the assessment.

And it shall be lawful for the duly authorized officers of Government employed in the said revenue-survey, to enter upon all lands not heretofore assessed by such revenue-survey, for the purpose of fixing and making such assessment thereof.

Rule 2.—The assessment of lands of such an exceptional character as not to be assessable under the revenue-survey-rules, shall be in the discretion of the Revenue-officers of Government, which discretion shall be guided, so far as may be, by the rate at which similar land in the same district belonging to Government is let, due regard being had by the said Revenue-officers to all equitable considerations affecting such lands.

Shares of the revenues of villages (such as amals) shall be assessed for the purposes of this Act at the value thereof, calculated at the average shown by such accounts of actual realizations by the holders as are forthcoming for the ten years immediately preceding the promulgation of these rules.

Rule 3.—Lands for which a joḍí, salámí or other quit-rent or land-tax, under whatever denomination, is already paid to Government or may be payable to Government under the sections last preceding, instead of being liable to only one-eighth of the assessment, shall, in addition to the annual amount of such joḍí, salámí, quit-rent or other tax aforesaid, be liable to a further annual quit-rent equal to one-eighth of the sum by which the annual or average annual amount of such joḍí, salámí or other quit-rent or tax aforesaid may fall short of the assessment.

Rule 4.—Quit-rent imposed under this section (section 6) shall be fixed in perpetuity, and shall not be liable to increase or decrease on any new assessment, save in so far as is above in rule 1 of this section (section 6) provided to

the contrary, in the case of lands which have not been already assessed by the revenue-survey now in progress.

Rule 5.—The whole of the exempt lands found in the possession of each holder, even if in excess of the original alienation, shall be continued according to the provisions of this section (section 6) and the rules thereunto annexed, and subject to the enactments contained in section 7.

Settlement under section 6, as regards right to levy annual quit-rent, binding on rightful owner, as well as landholder.

7. Any settlement made by the Governor in Council with the holder of land held wholly or partially exempt from the payment of land-revenue in accordance with section 6 of this Act, and the rules annexed to the said section, shall, so far as the right of Government to levy the annual quit-rent mentioned in the said section is concerned, not only be binding upon such holder, his heirs and assigns, but also on the rightful owner, his heirs and assigns, whosoever such rightful owner may be:

Saving of rights and remedies of rightful owner, his heirs and assigns, against holder, his heirs or assigns.

Provided always that the said rightful owner, his heirs and assigns, shall not by this Act, or any thing therein contained, be deprived of any rights or remedies to which he or they would be entitled against the said holder, his heirs or assigns, for the recovery of the said lands or any part thereof, if this Act had not been passed; and in the event of the rightful owner, his heirs or assigns recovering the said lands or any part thereof, from the said holder, his heirs or assigns, any declaration, guarantee or settlement made by the Governor in Council under or in accordance with sections 2 and 6 of this Act, and the rules annexed to the said section 6, with respect to the said lands, while the same were in the possession of the said holder, shall accrue to the benefit of the said rightful owner, his heirs and assigns.

On proof of adjudication of title, holder exempt from quit-rent and from further inquiry into title.

8. Whenever a holder of alienated lands on being called upon, under the rules to be hereinafter enacted, to declare if he consents to the quit-rent described in section 6, shall plead that his title has already been formally adjudicated, then on proof of such adjudication, and provided the case do not fall under case 4 of clause 2, section 2, the said holder shall be exempt both from liability to the said quit-rent, and from any further inquiry into title:

Proviso.

Provided, however, that if the said holder, for the purpose of enlarging the scope of the former adjudication, or for other reason, shall apply to have his holding brought under the settlement described in the second and following sections of this Act, he shall be permitted to do so; and the lands shall thenceforth be held with all the privileges conferred by the said settlement and subject to all its conditions as if no previous adjudication had been made.

Collector may serve notice on holder calling on him to state whether he is

9. *First.*—In order to ascertain whether a holder of lands, wholly or partially exempt from payment of land-revenue desires to accept the settlement described in sections 6 and 7 of this Act, it shall be lawful for the Collector of each collectorate or district, or for any other officer duly authorized by him, to

willing to accept settlement or demands formal inquiry into title.

serve or to cause to be served a notice in writing upon the holder of such lands, calling upon him to state whether he is willing to accept and abide by the settlement aforesaid, or whether he demands formal inquiry into his title.

Language and form of notice.

Second.—The notice shall be in the prevailing language of the collectorate or district in which the lands are situate, and shall explain the nature of the alternatives offered on the part of Government.

On whom to be served.

Third.—It shall be served upon the person holding, or registered in the Government-land-register as holding, the lands wholly or partially exempt from the land-revenue as aforesaid, if he be resident within the limits of the collectorate.

Service when persons not resident within collectorate

Fourth.—If such persons as last aforesaid be not resident within the collectorate, the notice shall be served upon any person acting for the aforesaid in respect of the lands.

Service when several persons hold lands jointly.

Fifth.—When more persons than one hold jointly lands wholly or partially exempt from land-revenue, service of notice upon any one of them shall in every case be sufficient.

Service when holder known to reside in other collectorate.

Sixth.—If the holder be known to reside in another collectorate of the Bombay Presidency, and if there be no person acting for him in the collectorate in which the lands are situate, the notice shall be sent to the Collector of such other collectorate and served or caused to be served by him.

Service when no person acts for holder who cannot be found.

Seventh.—If there be not any person acting for the holder, and if he cannot be found, the notice shall be served upon some one of the actual occupants of the land (if any) and a copy of such notice shall be posted in the office of the Collector and of the chief Revenue-officer of the taluqa or other sub-division of the collectorate, and in the chaurí or most public place in the village where the lands are situate.

Holder making no answer for six months, deemed to have dispensed with inquiry.

Eighth.—If within six calendar months after the service of such notice in manner aforesaid the person holding the lands wholly or partially exempt from revenue as aforesaid or his legally-constituted agent, shall not give an answer in writing to such notice, stating clearly in such answer that he declines the settlement, and demands an inquiry into the title to such exemption as aforesaid, he shall be deemed to have finally dispensed with such inquiry, and the lands shall be dealt with under sections 2 and 6 of this Act, and the rules annexed to said section 6.

If no holder or owner discovered, land to be fully assessed

If no holder or owner can be discovered, the land shall be fully assessed to the public revenue, and shall continue to be so assessed unless some person shall within the period allowed by the law of limitations, appear and prove his title to it.

When suffi-

Ninth.—In the event of any dispute arising as to the sufficiency of the

...notice has been served by the officer ... this section, an appeal against his decision as to the ... such notice shall lie within thirty days to the Revenue Commissioner of the division, whose decision shall be final.

10. *First.*—In the event of the holder upon whom notice has been served as last aforesaid claiming inquiry, such inquiry shall be conducted under the rules and according to the principles hereinafter enacted. Conduct of inquiry, when claimed.

Second.—The establishment of a title to exemption shall not preclude the levy of full assessment on all land ascertained to be held in excess of that to which a title is established, and such excess shall forthwith be fully assessed. Land held in excess of that to which title is established, to be fully assessed.

Third.—In the event, upon such inquiry as aforesaid, of there being a failure by the holder to establish a title to exemption from payment of land-revenue, the lands to which he has failed to establish such title shall forthwith become and be liable to payment of annual revenue at the full assessment. Effect of exemption not being established.

11. *First.*—When the holders of lands, held wholly or partially exempt from the payment of land-revenue, demand a trial and adjudication of their title under the provisions of section 10 of this Act, they shall be required to deposit forthwith in the Collector's treasury, or the treasury of the taluqa in which the lands are situated, a sum equal to one-eighth part of the annual assessment of the land, ascertainable according to rules 1 and 2 of section 6 of this Act, and thereafter to continue to pay annually an eighth of the said assessment as it becomes due from the date of such demand for trial until the date of such adjudication, and to furnish satisfactory security for the payment of the remaining seven-eighths thereof, in case of their failure to prove the title to exemption asserted by them, and in default of their making such deposits and furnishing such satisfactory security, the full assessment of the land, which is to be the subject of inquiry, shall be levied, pending the adjudication. When holders demand trial and adjudication, deposits to be made and security given.

Second.—If the inquiry result in the establishment of the asserted title, the holder, or, in the event of his decease, his heir who succeeds to possession of the said land, shall be entitled to a refund of all deposits made and assessment levied under the provisions of this section pending such inquiry as aforesaid, and to interest thereon at the rate of five per cent. per annum. Refund of deposits and assessment, with interest, if holder prove title.

Inquiry by whom to be held.

12. When an ... Act, such inquiry shall be held ... specially authorized by Government on that behalf, ... Collector.

Steps to be taken by claimant demanding inquiry.

13. When any claimant shall demand an inquiry as aforesaid, he shall within two months of notifying his intention to that effect furnish the deposit and security required in such cases by section 11 of this Act, and forward to the office of the Collector of the district, a written statement, setting forth in detail the grounds on which the claim to exemption is founded, accompanied by copies of the original documents, if any, which he wishes to produce in support of the claim, and a list of such other evidence, whether written or oral, as he may desire to have exhibited; and no further evidence beyond such documents and witnesses as may be specifically named in the said statement or its accompaniments, shall be admitted in support of such claim without reason assigned to the satisfaction of the trying authority.

On failure to comply with requirements of clause 1, claim to be disallowed.

Second.—If any claimant shall fail, within the time specified, to comply with the requirements of clause 1 of this section, except from unavoidable causes, to be proved to the satisfaction of the Collector of the district, his claim shall be finally disallowed, and his land shall be fully assessed forthwith.

Collector to file papers for trial by himself, or forward them to other officer. Time of trial to be fixed.

Third.—On receipt of the said statement and accompaniments, the Collector shall file the papers for trial before himself or forward them for trial to any officer duly authorized under the section last preceding to hold such inquiry; and the trying officer shall, with reasonable regard to the public convenience and that of all persons interested, fix a time at which the trial shall be proceeded with.

Notice thereof to claimant.

Due notice of the date fixed shall be given to the claimant, who shall be invited to appear in person or by duly constituted agent, with all original documents, on the day appointed for hearing.

Burden of proof of title on claimant demanding inquiry.

14. Whensoever any claimant demands inquiry as aforesaid, the burden of proof of title shall, in every instance, lie and be cast exclusively upon the claimant, and it shall not be lawful for any civil Court to place the burden of proof upon Government or upon the officer or officers representing Government, of a right to levy the ordinary land-revenue upon the lands the subject of any such inquiry as aforesaid;

and it shall in every instance be presumed, until the contrary is distinctly

proved, that Government has the right to levy such ordinary land-revenue upon the lands the subject of any such inquiry as aforesaid.

It is, however, hereby further provided, that nothing in this section contained shall disentitle Government or its duly authorized officers to produce and give evidence in rebuttal or disproof of the alleged title to exemption aforesaid, if it seem to Government or its duly authorized officers desirable or necessary to produce and give such evidence.

Claimant allowed benefit of evidence in Government-records in custody of public officer.

15. Any claimant demanding an inquiry into his title shall be allowed the benefit of any evidence to be found in the records of the present or any former Government, in custody of such public officer as is authorized by the British Government to have charge of the same, and such public officer shall be bound to search for, and to produce the same on application made to him.

Trying authority not bound to admit in evidence certain sanads.

16. The trying authority shall not be bound to admit any sanad as evidence in support of a claim to exemption, which shall not bear an endorsement as having been registered by a Collector before the expiration of one year from the date on which section 42 of Regulation XVII of the Bombay Code of 1827 came into force, *i. e.*, the first September of that year.

Code of Civil Procedure applied to service of summons on, and attendance and examination of, witnesses.

17. *First.*—For the conduct of the inquiry, the rules of the Code of Civil Procedure in regard to the service of summons on, and the attendance and examination of, witnesses, whether called by the claimant or on the part of Government, shall be followed, except in so far as may otherwise be specified in this Act;

Office of Collector a civil Court.

and the office of the Collector or other trying authority shall, for the purpose of this inquiry, be constituted a Court of civil judicature as contemplated by the said Code.

Language of record of proceedings.

18. The Collector or other trying authority shall keep a record of his proceedings in the language generally spoken in the zila.

Translation of decision to be given to claimant.

He shall also record in English his decision, with a full statement of the grounds on which it is passed; and a translation of such decision and statement shall, at the close of the inquiry, be given to the claimant or party attending on his behalf.

Stamp Act applied.

Second.—Except in regard to the translation last aforesaid, and to the statement with accompaniments described in section 13, clause 1, the provisions of the Stamp Act shall be held applicable to all petitions or other papers presented by or on behalf of the claimant, and the cost of all stamps so required shall be borne wholly by the said claimant.

Decision in favour of continuance of exemption to be final.

19. *First.*—If the decision of the Collector or trying authority be in favour of the continuance of the exemption or any portion thereof, such exemption shall be admitted in terms of the decision, which shall be final.

Appeal by claimant from adverse decision.

Second.—If the decision be against the right of the claimant to the total or partial exemption claimed, the claimant shall be at liberty to appeal to the zila Court within ninety days from the date of that decision; provided that the annual value of the exemption decided against be rupees fifty or upwards, and that proceedings under section 10, clause 3, shall not in any case be stayed pending the result of such appeal.

Refund if appeal succeed.

Third.—If the result of the appeal be in favour of the claim, the amount which may have been levied under section 10, clause 3, shall be refunded.

Forfeiture by claimant producing in appeal new evidence not produced at original trial.

Fourth.—If any evidence oral or documentary, not produced before the Collector or trying authority, be admitted in appeal without the claimant showing sufficient cause why such evidence was not previously produced, and proving that such cause was assigned to the Collector, or adducing good reason for its not having been so assigned, the said claimant shall forfeit, even if the appeal be successful, all sums which may have been levied from him under section 10.

Stamp Act applied.

Fifth.—The provisions of the Stamp Act shall be applicable to all proceedings under appeal.

Bar to setting aside Collector's decision.

Sixth.—The decision of the Collector or trying authority shall not be liable to be set aside on appeal, on account of want of form or on any other technical ground.

When exemption claimed under sanad, &c., may be admitted in terms of grant.

20. *First.*—When exemption is claimed under a sanad or other writing granted by the present or any former Government, or by any of their officers possessing authority to grant the same, exemption shall be admitted in terms of the grant, unless evidence be forthcoming to show that the terms of such grant did not take effect or were subsequently modified, cancelled or revoked by competent authority.

Officers recognized as authorized to grant or revoke sanads, &c.

Second.—The public officers specified in the annexed schedule are recognized to have possessed authority under former Governments to grant or revoke sanads or other writings exempting land either wholly or partially from the payment of land-revenue.

Admission of claims to exemption in virtue of prescription.

21. Claims to exemption from payment of land-revenue, in virtue of prescription, shall be admitted under the following circumstances :—

First.—When land situated in districts ceded by or conquered from the Peshwa after 1803 is proved to have been held by any person, his heirs or others deriving right from him, wholly or partially exempt from payment of land-revenue, under a tenure recognized by the custom of the country, for sixty years in succession next preceding the date of this Act; or when land situated in any other district is proved to have been held in like manner for thirty years as aforesaid.

Second.—Provided, however, that whenever exemption has been enjoyed under a sanad or other writing, no title by prescription shall be admitted unless the full period required under the last preceding clause shall have lapsed subsequent to the expiry of the title under the sanad or writing aforesaid.

Third.—And that in no case shall a title to prescription be admitted in respect to Government-lands alienated since the British Government obtained possession of the country, and without its permission.

Fourth.—And further, that the exemption during the periods of sixty and thirty years respectively, as detailed in clause 1 of this section, be proved to have been enjoyed in strict conformity with the conditions of the recognized tenure under which it is claimed.

Conditions on which admitted prescriptive title to continue to be recognized.

22. A prescriptive title admitted under the preceding section shall continue to be recognized only in conformity with the conditions of the tenure under which the exemption has been hitherto enjoyed.

Prescriptive title when not admitted.

23. A prescriptive title under section 21 shall not be admitted in respect to any land held for service, or on a tenure implying an obligation of service, whether such service be performed or not.

Sanad, &c., of prescriptive enjoyment not sufficient title in so far as exemption annulled by order issued by present or former Government, &c.

24. *First.*—A sanad or other writing under section 20, of prescriptive enjoyment under a recognized tenure as described in section 21, shall not be considered a sufficient title, in so far as the exemption has been wholly or partially annulled by an order issued by the present or any former Government, or by any public officer possessed under a former Government, of full and sufficient authority to grant deeds exempting lands from the payment of public revenue, or so far as the land has been assessed under an order not subsequently recalled, issued by any of the said public officers, and such assessment has been realized.

Deed or enjoyment under recognized tenure when not sufficient title.

Second.—Nor shall such a deed or writing, or such enjoyment under a recognized tenure, be considered as a sufficient title, if the land has been subsequently assessed for the period of twelve (12) years like other land of the same description enjoying no exemption, and the assessment has been realized, but without prejudice to any suit filed in support of the title to exemption before the completion of the said period.

Title when affected only to extent of assessment made and realized.

Third.—And where the assessment so levied for twelve (12) years has not been to the extent of that imposed on land of the same description enjoying no exemption, such assessment shall affect the title only to the extent of the assessment so made and realized.

Adoptions when not admitted.

25. Adoptions unrecognized by the present or former Government or by one of their public officers possessed of competent authority, shall not be

admitted in any cases in which a claim to exemption is founded on a grant limiting succession to lineal descent.

Application of sections 20 to 25.

26. The provisions of sections 20 to 25, shall be of general application in all cases in which inquiry may have to be made, and shall not be confined to cases in which inquiry may have been demanded under section 10 of this Act.

27.—[*Repealed by Act No. XII of 1873.*]

Appeal from proceedings of officers making settlement.

28. When any settlement of a claim or claims to total or partial exemption from land-revenue has been made by the Governor in Council, or any duly authorized officer of Government under this Act, any appeal from or against the proceedings, orders or acts of the officers of Government engaged in making any such settlement shall be made to the Governor in Council, or to such officer or officers as may be appointed by the Governor in Council to take cognizance of such appeals, and shall not be cognizable by any other authority.

29.—[*Repealed by Act No. X of 1876.*]

Quit-rents how levied.

30. All quit-rents payable under this Act shall be levied in the manner in which ordinary land-revenue is recoverable, and the claim of Government to such quit-rents shall have precedence over any other debt, demand or claim whatsoever, whether in respect of mortgage, judgment, decree, execution or attachment, or otherwise howsoever, against the lands or the holder or holders thereof.

Power to enter lands to measure or assess same.

31. Whenever it shall be necessary either to measure or to assess any lands in order to give effect to any of the provisions of this Act, it shall be lawful for the Collector or officer duly authorized by him to enter upon the same at any time and from time to time, for the purpose of making an assessment or assessments thereof.

nterpreta-n-clause.

32. (*A*) Unless there be something in the subject or context of this Act repugnant to such construction—

Number.

words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number, and

Gender.

words importing the masculine gender shall include females :

"Lands."

(*B*) the word "lands" shall, for the purposes of this Act, be understood to include villages, portions of villages, shares of the revenues thereof, and landed estate of every description :

"Political tenure."

(*C*) "political tenure" is tenure created from, or dependent upon, political considerations the existence of which shall be determined by the Government :

"Lands held for service."

(*D*) the phrase "lands held for service" shall include lands specially granted, or held or continued, nominally for the performance of service, whether that service be actually performed or not, and lands granted, held or

continued, partly in consideration of past service and partly for the performance of prospective service, but shall not include lands granted in consideration of past service only; and it is to be understood that Government shall be competent to determine any question that may arise in giving effect to this Act as to whether or not any lands are lands held for service :

"Formal adjudication."

(*E*) "formal adjudication" shall be held to mean final adjudication under any regulation of the Bombay Government, or final decision by the British Government or some authorized officer thereof :

"Holder."

(*F*) for the purposes of this Act, the word "holder" shall be taken to signify the person who, by himself, his tenants, sub-tenants or agents is in possession of the land held wholly or partially exempt from land-revenue-assessment, and shall include a mortgagee in possession as aforesaid. The committee, manager or trustee of any temple, who may be in possession of such lands, shall be considered the holder thereof :

"Transfer."

(*G*) the word "transfer" shall, for the purposes of this Act, be taken to mean the permanent alienation of land by assignment, gift, sale, deed or other instrument, or otherwise howsoever, and also mortgage of the same under which possession shall have passed or is to pass to the mortgagee.

SCHEDULE.

(*See section 20, clause second.*)

List of Officers who, under former Governments, had Power to confer Grants exempting Lands wholly or partially from the Payment of public Revenue.

UNDER THE EMPERORS OF DEHLI.

Subahdárs of Provinces.

IN THE TERRITORIES THAT WERE SUBJECT TO THE PESHWA.

The Peshwa.

All officers holding the mutálakí seal.

All sarsubahdárs in their districts.

All superior local functionaries acting directly under the Peishwa, without the intervention of any superior authority, if the deeds bear date prior to 1803.

The Gaikwáḍ considered as a sarsubahdár in the Peshwa's territories to the north of the Maihí, during the period that he held them in farm.

IN THE TERRITORIES THAT WERE SUBJECT TO THE GAIKWÁḌ.

The Gaikwaḍ.

All officers holding the mutálakí seal.

IN THE TERRITORIES THAT WERE SUBJECT TO SINDIA.

Sindia.
His officers holding the mutálakí seal.

IN THE TERRITORIES THAT WERE SUBJECT TO HOLKAR.

Holkar.
His officers holding the mutálakí seal.

IN THE TERRITORIES THAT WERE SUBJECT TO THE NIZÁM.

The Nizám.

IN THE DISTRICTS THAT WERE SUBJECT TO THEM.

The Nawáb of Surat.
The Nawáb of Broach.

ACT No. II OF 1864.

Received the Governor's assent on the 26th of July, 1864, and the Governor General's assent on the 31st of August, 1864.

An Act to provide for the periodical survey of steam-vessels in the ports, harbours, rivers or waters of the Presidency of Bombay.[a]

Preamble.

WHEREAS it is desirable to provide for the survey, by competent surveyors, of steam-vessels in the ports, harbours, rivers or waters of the Presidency of Bombay, with a view to the due security of life and property shipped on board such steam-vessels; It is enacted as follows:—

rtain
am-vessels
able to be
surveyed
twice a year.

1. Every steam-vessel, plying in the harbour of Bombay, or in any of the ports or harbours, or on any of the rivers or waters of the Presidency of Bombay, and every British steam-vessel carrying passengers between any port of the Presidency of Bombay and any other port, shall be liable to be surveyed twice in every year, in the manner hereinafter prescribed.

But no steam-vessel holding a certificate granted by the British Board of Trade or by any British Indian or British Colonial Government, shall be liable to be so surveyed as long as such certificate remains in force and valid, unless such steam-vessel, or the machinery belonging to the same, shall, subsequently to the issue of such certificate, have sustained injury or damage, or been found unseaworthy or otherwise inefficient.[b]

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[a] See Bombay Act No. IV of 1873.

[b] See Bombay Act No. IV of 1873, s. 4.

Government to appoint one or more surveyors.

2. It shall be lawful for the Governor of Bombay in Council to appoint a fit and proper person or persons, to be a surveyor or surveyors, for the purposes of this Act.

Authority to surveyors to board steamers for purpose of surveying.

3. It shall be lawful for the said surveyors, in the execution of their duties, to go on board any steam-vessel liable to be surveyed under this Act as soon as reasonably may be after the arrival of such steam-vessel in any of the ports, harbours, rivers or waters of the Presidency of Bombay, but not so as unnecessarily to hinder the loading or unloading of such steam-vessel, or to detain or delay her from proceeding on any voyage or service, and to inspect such steam-vessel or any part thereof, and any of the machinery, boats or equipments on board thereof:

and the owner, master and officers serving on board of such vessel shall be bound to afford to the surveyors all reasonable facility for such inspection or survey, and to afford them all such information respecting such vessel and her machinery, boats and equipments, or any part thereof respectively, as may be reasonably required by the surveyors:

Penalty for hindering them in making survey, or withholding information.

and any person who shall refuse access to the surveyors, or shall otherwise hinder them in the performance of their duty, or shall refuse or neglect to give any information which may reasonably be required of them, and which they have it in their power to give, shall be deemed guilty of contempt of lawful authority, and punishable under section 176 or 180 of the Indian Penal Code, whichever may be applicable to the case.

Grant by surveyors of certificate and declaration.

4. When any survey is made under this Act, the surveyors making such survey shall forthwith, if satisfied that they can with propriety do so, and on payment by the owner or master of the fees hereinafter mentioned, give to the owner or master of the steam-vessel surveyed a certificate and declaration signed by them, and framed in the form set forth in schedule A hereto annexed.

No clearance to steamer for voyage for which she has no certificate.

5. No officer of customs shall grant a clearance, nor shall any pilot be assigned, to any steam-vessel liable to be surveyed under this Act which shall not have been duly furnished with a certificate and declaration under the provisions of this Act, applicable to the voyage on which she is about to proceed, or the service on which she is about to be employed.

Penalty for leaving port without certificate.

And if any steam-vessel liable to be surveyed under this Act shall leave or attempt to leave any of the ports, harbours, rivers or waters of the Presidency of Bombay, without such certificate and declaration applicable to the voyage on which she is about to proceed, or the service on which she is about to be employed, the owner or master of such steam-vessel shall be liable to a fine not exceeding one thousand rupees for each offence, and if there be any officer of customs or any pilot on board of such steam-vessel, he may detain her until she is duly furnished with such certificate and declaration.

Master or officer being licensed pilot attempting to take ship out of port, without certificate, liable to lose license.

6. If the commander or any other officer of a steam-vessel liable to be surveyed under this Act is a licensed pilot, and shall leave or attempt to leave any of the ports, harbours, rivers or waters of the Presidency of Bombay in such steam-vessel without such steam-vessel being duly furnished with a certificate and declaration under the provisions of this Act, applicable to the voyage on which she is about to proceed, or the service on which she is about to be employed, such commander or other officer shall be liable, at the discretion of the Governor of Bombay in Council, to be deprived temporarily or permanently of his license as a pilot.

Power to order special survey of British steamer in harbour of Bombay.

7. It shall be lawful for the Governor of Bombay in Council to give special directions to the surveyors under this Act to survey any British steamer lying in any of the ports, harbours, rivers or waters of the Presidency of Bombay, and the provisions of this Act shall apply (so far as the same are in any way applicable) to every vessel so specially directed to be surveyed, and to the owner, master, officers and crew thereof.

Power to make rules as to mode and time of conducting survey.

8. The Governor of Bombay in Council is hereby empowered to frame rules as to the manner in which the surveys shall be made, and the times and places of such surveys, and the duties of the surveyors, provided that such rules shall not be inconsistent with the provisions of this Act.

Penalty for surveyor receiving fees, &c., not provided by Act.

9. Any surveyor demanding or receiving, directly or indirectly, from the owner, master or officer of any vessel surveyed by him under the provisions of this Act, any fee or remuneration otherwise than as provided by this Act, shall be liable to dismissal, in addition to any other penalty to which he may by law be liable.

Fee for survey.

10. For every survey made under this Act, the owner or master of the steam-vessel surveyed shall pay to each of the surveyors[a] making the same a fee calculated on the tonnage of the vessel according to the rates in schedule B hereto annexed.

Certificates to be hung up in conspicuous part of vessel.

11. The certificate and declaration granted by surveyors under this Act shall be hung up, and remain at all times suspended, where the same may be easily read, in some conspicuous part of the vessel for which the same is granted; and, in default of compliance with this provision, every owner or master shall be liable to a penalty not exceeding one hundred rupees for each offence.

Duration of certificate.

12. No certificate or declaration shall be held to be in force for the purposes of this Act after the expiration of six calendar months from the date thereof:

Proviso as to absence when

Provided that if any steam-vessel is absent when her certificate and decla-

[a] See Bombay Act No. IV of 1873, s. 11.

ration expire, no penalty shall be incurred for the want of a certificate and declaration, until she first begins to ply or is about to ply after her next subsequent return to any of the ports, harbours, rivers or waters of the Bombay Presidency. certificate expires

And the Governor of Bombay in Council, or any officer appointed by him for that purpose, may require any certificate and declaration which has expired, or has been revoked or cancelled, to be delivered up as may be directed; Power to require surrender of expired certificate.

and any owner or master or other person who, without reasonable cause, neglects or refuses to comply with such requirement, shall be deemed guilty of contempt of lawful authority, and be punishable under section 175 of the Indian Penal Code. Penalty for non-compliance.

13. The Governor of Bombay in Council may revoke and cancel any certificate and declaration given or made under this Act, in any case in which he has reason to believe— Power to revoke and cancel certificate and declaration.

(1) that the certificate or declaration of the sufficiency and good condition of the hull, boats, equipments and machinery of any steam-vessel has been fraudulently given or erroneously made; or

(2) that such certificate or declaration has otherwise been issued upon false or erroneous information; or

(3) that, since the giving and making of such certificate and declaration, the hull, boats, equipments or machinery of such ship have sustained any injury or are otherwise insufficient.

And in every such case the Governor of Bombay in Council may, if he thinks fit, require the owner or master to have such steam-vessel, boats, equipments and machinery again surveyed as herein provided. Power to require re-survey.

14. If any steam-vessel shall be surveyed under the provisions of this Act, and if the surveyors shall decline to give any certificate or declaration, or shall give a certificate or declaration with which the owner or master of the steam-vessel shall be dissatisfied, the Governor of Bombay in Council may, on the application of such owner or master, appoint two other surveyors to survey the said steam-vessel. If correctness of survey doubted, Government may order second survey by other surveyors.

The surveyors so appointed shall forthwith survey the said steam-vessel, and shall either decline to give any certificate and declaration, or shall give such certificate and declaration as, under the circumstances, may seem to them proper.

Every survey made under this section shall be made subject to all the provisions and rules, both as to the payment of fees and otherwise, which are applicable to surveys made in ordinary cases under this Act.

If the surveyors appointed under this section unanimously refuse to give any certificate and declaration, or agree as to the terms of their certificate and

declaration, such refusal or such certificate and declaration shall be final and conclusive; but, if they do not agree, the refusal originally made or the certificate and declaration originally granted by the surveyors, who surveyed the said steam-vessel in the first instance, shall remain and be of full force and effect.

Sections of Merchant Shipping Act applied to steam-vessels proceeding to sea from ports in Bombay.

15. It is hereby declared that sections 292, 293 and 294 of the Merchant Shipping Act (17 & 18 Vic., chap. 104), and schedule S of that Act are and shall be applicable to all steam-vessels proceeding to sea from any port or place in the Presidency of Bombay or its Dependencies, and that, in calculating the penalties mentioned in the said section 293, ten rupees be taken as the equivalent for one pound sterling.

Offences by whom tried.

16. Any case arising out of this Act may be tried by any officer having the full powers of a Magistrate, within whose jurisdiction the offence may have been committed, or by any Police Magistrate of the town of Bombay.

Penalties and fees how recovered.

The provisions of section 66 of Act XII of 1875 (*to consolidate and amend the law relating to Ports and Port-dues*) are hereby extended to all penalties imposed under this Act; and all fees due under section 10 of this Act shall be recoverable in like manner as penalties are recoverable.

Interpretation-clause.

17. The word "surveyors" as used in this Act shall be taken to include any surveyor, acting alone, when authorized so to do by the Governor of Bombay in Council, under the provisions of this Act.

When the "survey" of steam-vessels is contemplated by any part of this Act, such survey shall be held to include a survey of such vessels, hull, rigging, machinery, boats, equipments and other appurtenances.

SCHEDULE A.

Form of Surveyors' Certificate and Declaration.

Name of steam-vessel	Tonnage.	When and where built, and material.	Power.	Description and condition of engines, and age.	Description and condition of boilers, and age.	Ground tackle.	Condition of hull.	General equipment.	Name of master and number of officers and deck-crew, and of engineers and engine-room crew.	When and where last coppered, repaired or cleaned.	Limits (if any) beyond which the vessel is not fit to ply.	Time, if less than six months, for which the hull, boilers, engines or any of the equipments will be sufficient.	REMARKS.

WE, the undersigned, declare that we have examined the above-named steamer, and to the best of our judgment she, her engines, boats and equipments, as shown in the above Statement, are fully sufficient for the service on which it is intended to employ the said steamer, that is to say, for (*as the case may be*).

A. B
C. D

SCHEDULE B.[a]

Rate of Fees to be charged (referred to in section 10) for each Survey, whether one or more Surveyors are employed.

For steamers of less than 200 tons register					...	Rs.	15
Ditto	of 200 tons register and up to 350 tons register					,,	20
Ditto	of 350	do.	do.	700	do.	,,	25
Ditto	of 700	do.	do.	1,000	do.	,,	30
Ditto	of 1,000	do.	and upwards			,,	35

ACT No. VI of 1864.

Received the Governor's assent on the 8th of October, 1864, and the Governor General's assent on the 25th of November, 1864.

An Act for the better regulation of the diet-money of persons imprisoned by the Bombay Court of Small Causes.

Preamble.

WHEREAS, in consequence of the great increase in the price of provisions in Bombay, it is necessary that extended authority should be given to vary the rate of diet-money to be deposited for the subsistence of persons imprisoned by the Bombay Court of Small Causes under Act IX of 1850; It is enacted as follows:—

1.—[*Repealed by Act No. XII of 1873.*]

Power to regulate rate of diet-money prescribed in section 62 of Act IX of 1850.

2. Whenever, with reference to the price of provisions, the Governor in Council of Bombay shall be of opinion that the rate of diet-money prescribed in section 62 of Act IX of 1850 is insufficient for the subsistence of persons imprisoned by the Bombay Court of Small Causes under that Act, it shall be lawful for the Governor in Council of Bombay, from time to time, to fix such other rate as may to him seem sufficient.

Court may vary rate in case of illness or for other special cause.

3. It shall be lawful for a Judge of the Bombay Court of Small Causes, in case of illness or for other special cause, to order that the diet-money to be deposited for the subsistence of a prisoner, taken in execution under a warrant of the Court, shall be deposited after such rate, as may to the Judge seem necessary:

Provided that such rate shall not exceed twice the rate which may be fixed by the Governor in Council of Bombay under the last preceding section.

Every such order may, from time to time, be revised and altered, on due cause being shown.

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[a] Substituted by Bombay Act No. IV of 1873, sec. 11

ACT No. I of 1865.

Received the Governor's assent on the 18th of October, 1864, and the Governor General's assent on the 6th of January, 1865.

An Act to provide for the survey, demarcation, assessment and administration of lands held under Government, in the districts belonging to the Bombay Presidency, and for the registration of the rights and interests of the occupants of the same.[a]

Preamble.

WHEREAS a moderate assessment of land-revenue is equally conducive to the interests of Government and the well-being of its subjects; and whereas it has been and is the desire of Government to equalise assessments, to ascertain and settle the obligations, and to record the rights, interests and privileges, of persons and classes owning and occupying land; and whereas it is proper to maintain by law, during their currency, all existing settlements which have been made under the authority of Government; and whereas it is necessary to continue and introduce revenue-surveys wherever they may be required in the Presidency of Bombay; It is enacted as follows :—

1 to 36.—[*Repealed by Bombay Act No. V of 1879.*]

Leases for period for which settlement guaranteed may be granted to Khots in Ratnagiri and in certain talukas of the Táná collectorate.

37. Whenever, in the Ratnagiri collectorate and in the Raigarh, Rájpurí and Sankí talukas of the Táná collectorate, the survey-settlement is introduced into villages or estates held by Khots, it shall be competent for the Superintendent of Survey or Settlement-officer, with the sanction of the Governor in Council, to grant the Khot a lease for the full period for which the settlement may be guaranteed, in place of the annual agreements under which such villages have hitherto been held, and, further, the provisions of section 36 in respect to the right of permanent occupancy at the expiration of a settlement-lease shall hold good in regard to those villages or estates.

Power to fix demands of Khot on tenant at time of survey.

38. It shall also be competent for such officer, with the sanction of the Governor in Council, to fix the demands of the Khot on the tenant at the time of the general survey of a district, and the terms thus fixed shall hold good for the period for which the settlement may be sanctioned.

Proviso.

But this limitation of demand on the tenant shall not confer on him any right of transfer by sale, mortgage or otherwise, where such did not exist before, and shall not affect the right of the Khot to the reversion of all lands resigned by his tenant during the currency of the general lease.

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[a] Declared applicable to towns and cities, Bombay Act No. IV of 1868.

ACT No. III of 1865.

Received the Governor's assent on the 17th of September, 1864, and the Governor General's assent on the 18th of July, 1865.

An Act to amend Act XXI of 1848 (*for avoiding Wagers*).[a]

Preamble.

WHEREAS it is expedient, so far as regards the Presidency of Bombay, to amend Act XXI of 1848 (*for avoiding wagers*); It is enacted as follows:—

Contracts declared null and avoid.

1. All contracts, whether by speaking, writing or otherwise, knowingly made to further or assist the entering into, effecting or carrying out agreements by way of gaming or wagering, and all contracts by way of security or guarantee for the performance of such agreements or contracts, shall be null and void;

No suit allowed on such contracts.

and no suit shall be allowed in any Court of Justice for recovering any sum of money paid or payable in respect of any such contract or contracts, or any such agreement or agreements as aforesaid.

Nor for commission or brokerage, &c., in respect of agreements by way of gaming or wagering.

2. No suit shall be allowed in any Court of Justice for recovering any commission, brokerage, fee or reward in respect of the knowingly effecting or carrying out, or of the knowingly aiding in effecting or in carrying out, or otherwise claimed or claimable in respect of, any such agreement by way of gaming or wagering, or any such contract as aforesaid, whether the plaintiff in such suit be or be not a party to such last-mentioned agreement or contract, or for recovering any sum of money knowingly paid or payable on account of any persons by way of commission, brokerage, fee or reward in respect of any such agreement by way of gaming or wagering or contract as aforesaid.

Payments for which guardian and personal representative not to be allowed credit.

3. No guardian, executor, administrator, heir or personal representative of any deceased person shall be entitled to or allowed credit in his accounts for or in respect of any payment by him on behalf of such deceased person (or, in the case of a guardian, on behalf of any minor), in respect of any such agreement or agreements as are mentioned in section 1 of Act XXI of 1848 or in respect of any such contract or contracts, commission, brokerage, fee or reward, or money paid or payable in respect thereof as are respectively mentioned in the first and second sections of this Act.

Construction of Act.

4. This Act shall not be construed so as to give it a retrospective effect and shall be read and taken as part of Act XXI of 1848.

Interpretation-clause.

5. In the construction of this Act—

words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and

words importing the masculine gender shall include females.

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[a] Void, so far as it purports to affect the High Court. Act No. XXI of 1848 was repealed by Act No. IX of 1872.

ACT No. VII of 1865

Received the Governor's assent on the 19th of October, 1865; and the Governor General's assent on the 14th of November, 1865

An Act to extend the provisions of Act of the Governor General of India in Council, No. XX of 1863, to the district of Kánara in the Bombay Presidency

Preamble. WHEREAS it is expedient to extend the provisions of Act No. XX of 1863 (*an Act to enable the Government to divest itself of the management of religious endowments*) to the district of Kánara in the Bombay Presidency, It is enacted as follows —

Act XX of 1863 extended to Kánara. 1 The provisions of Act No XX of 1863 are hereby extended to the district of Kánara in the Bombay Presidency

Effect of posting in mámlatdár's office notice of appointment of committee. 2 A notice of the appointment of the committee referred to in section 7 of Act XX of 1863 shall, if posted at the mámlatdár's office, be equivalent to a notification of such appointment in the official Gazette

Interpretation clause. 3 The words "Board" and "Board of Revenue," as used throughout Act XX of 1863 shall, for the purposes of this Act, be held to mean the Revenue Commissioner of the division

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ACT No VIII of 1865.

Received the Governor's assent on the 19th of October, 1865, and the Governor General's assent on the 13th of December, 1865.

An Act to authorize taxation in the Province of Sindh for objects of public local utility and improvement.

Preamble. WHEREAS it is expedient to provide funds for local works of public utility and improvement, and to aid in defraying the expense of the Department of Public Works in the Province of Sindh, It is enacted as follows —

Levy of local cess on lands. 1 It shall be lawful to levy for the purposes of this Act from all lands in the Province of Sindh a cess not exceeding one anna on every rupee assessable to the ordinary land-revenue, and such cess shall be levied in the same manner, and under the same rules, as the ordinary land-revenue

Levy of cess on settled lands. Provided that in all cases where an assessment of land-revenue has been authoritatively fixed for a term of years before this Act comes into operation, and no cess has been theretofore levied upon such assessment, the cess authorized by this Act to be levied shall not be levied until the expiration of such term,

Cess on lands hereafter settled to be imposed at time of settlement.

provided also that in respect of lands of which a settlement for a term of years may be made after this Act comes into operation, such cess be imposed at the time when such settlement is made, and at no other period during the currency of the term.

Cess on alienated lands.

2. It shall also be lawful, in the case of jágír and other alienated lands, to levy such cess at the rate heretofore customarily levied, namely, five per centum on the assessable value of those lands, instead of the rate hereinbefore directed to be levied.

Levy of cess from farmers of land or sáír revenue.

3. It shall also be lawful to levy a cess not exceeding one anna on every rupee leviable under the head of land or sáír revenue from all farmers of land or sáír revenue who may take farms subsequently to this Act coming into operation.

Levy of shop-tax.

4. It shall also be lawful to levy a shop-tax at rates according to classes to be approved and notified by the Commissioner in Sindh from time to time, but in no case exceeding rupees ten per annum for each shop, and such tax shall be leviable from all persons who carry on any profession, trade or employment for gain, and use a shop or office for the purpose, and shall be enforced in the same manner and under the same rules as are provided for the levy of land-revenue, so far as applicable.

Cess and tax by whom levied and how collected.

5. The cess and tax to be levied under this Act shall be levied by the Commissioner in Sindh under the orders of the Governor in Council of Bombay, and shall be collected by such officers as the said Commissioner, acting under such orders, shall direct to collect the said cess and tax.

Assignment of portion of taxes to local fund committees.

6. Such portion of the proceeds of the cess and tax to be levied under this Act as the Commissioner in Sindh may direct shall be annually paid to the local fund committees in each collectorate or district in which the same respectively are levied, and the portion so paid shall, subject to such rules and restrictions as the Commissioner in Sindh may from time to time prescribe, be expended on works of local improvement, such as roads, bridges, schools, hospitals, dispensaries, dharmsálas, markets, wells and other works for water-supply, and any other local works of public utility calculated to promote the public health, comfort or convenience:

Proviso.

Provided that not less than a moiety of the nett proceeds of any one year of such tax and cess be paid to the local fund committee of any district, and provided also that the whole of the nett proceeds of the cess leviable in respect of jágír and other alienated lands shall be paid to the local fund committees of each district in which the same is levied.

Payment of residue to Government.

7. The residue of the nett proceeds of such cess and tax after payment to the local fund committees under the preceding section shall be credited to Government and be retained by it as a set-off against the expenditure incurred

on account of the establishment and expenses of the Department of Public Works and canal clearances in the Province of Sindh.

Account to be kept.

8. An account of all receipts and disbursements of such part of the proceeds of the cess and tax levied under this Act as shall be paid to the local fund committees shall be rendered annually by the Collector, Political Superintendent or other controlling officer, and copies in the Sindhí language shall be published and circulated for the information of the public; and further, an abstract-account of the whole fund, including both the local fund assignment under section 6 and the contribution to the Department of Public Works under section 7, shall be published annually by the Commissioner in Sindh in both English and Sindhí, which account shall show the amount of cess and tax levied under this Act and the mode in which the same has been applied, and the balance, if any, remaining undisposed of at the close of the year.

ACT No. III of 1866.

Received the Governor's assent on the 13th of March, 1866, and the Governor General's assent on the 2nd of April, 1866.

An Act for the prevention of gambling in certain places in the Presidency of Bombay.

Preamble.

WHEREAS it is expedient to make legal provision against gambling in certain places in the Presidency of Bombay; It is enacted as follows:—

Act to apply to certain towns, railway-stations and surrounding places.

1. This Act shall apply and be in force—

(1) in all cities and towns beyond the local limits of the ordinary original jurisdiction of the High Court of Judicature at Bombay to which the Governor in Council of Bombay shall by any order or orders, to be from time to time published in the Government Gazette, direct the same to be applied:

Provided that each of such cities or towns shall contain not less than five thousand inhabitants, and that in each of them there shall be a resident Magistrate invested with the full powers of a Magistrate under the Code of Criminal Procedure; and

(2) in all railway-station-houses beyond the local limits of the ordinary original jurisdiction of the High Court of Judicature at Bombay, and in all places surrounding such station-houses, and being not more than three miles distant from any part of such station-houses respectively;

and in no other places within the Presidency of Bombay.

Government may fix date of application of Act to towns.

2. The Governor in Council may, by an order made in pursuance of section 1 of this Act, fix the date from which the provisions of this Act shall apply to any city or town, and the production of a *Bombay Government Gazette*

containing an order purporting to be made by the Governor in Council applying the provisions of this Act to any city or town, shall be sufficient proof that such city or town is one to which this Act may lawfully be, and has lawfully and duly been, applied in pursuance of section 1 thereof :

Power to vary orders.

Provided that the Governor in Council may, by any subsequent order or orders, cancel or vary any previous order, and the production of a *Bombay Government Gazette* purporting to contain such subsequent order or orders shall be sufficient proof that such prior order has been cancelled or varied, as the case may be.

Keeping common gaming-house.

3. Whoever being the owner or occupier, or having the use of any house, room or place situated within the limits to which this Act applies, opens, keeps or uses the same for the purpose of a common gaming-house, and whoever being the owner or occupier of any such house, room or place, knowingly and wilfully permits the same to be opened, kept or used by any other person for the purpose aforesaid, and whoever has the care or management of, or in any manner assists in conducting, the business of any such house, room or place, opened, kept or used for the purpose aforesaid, shall be liable to fine not exceeding five hundred rupees, or to imprisonment, either simple or rigorous, for any term not exceeding three calendar months.

Gaming in common gaming-house.

4. Whoever in any house, room or place situated within the limits aforesaid, and used as a common gaming-house, is found playing or gaming with cards, dice, counters or other instruments of gaming, or is found there present for the purpose of gaming, whether by playing for any money, wager, stake or otherwise, shall be liable to fine not exceeding two hundred rupees, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month ; and any person found within the limits aforesaid in any common gaming-house during any gaming or playing therein, shall be presumed, until the contrary be made to appear, to have been there for the purpose of gaming.

Power to authorise entry of gaming-house by Police-officers.

5. It shall be lawful for any Magistrate exercising the full powers of a Magistrate under the Code of Criminal Procedure, or for any District Superintendent of Police or Assistant Superintendent who has been invested with the full powers of a Magistrate, upon any complaint made before him on oath or solemn affirmation that there is reason to suspect any house, room or place, situated within the limits aforesaid, to be used as a common gaming-house, and upon satisfying himself after such inquiry as he may think necessary that there are good grounds for such suspicion, to give authority, by special warrant under his hand, when in his discretion he shall think fit, to any inspector, chief constable, faujdár or other superior officer of Police of not less rank than a faujdár, to enter, with the assistance of such persons as may be found

necessary by night or by day, and by force if necessary, any such house, room or other place, and to take into custody and bring before a Magistrate all persons whom he finds therein, whether they are then actually gaming or not,

and to seize all instruments of gaming, and all moneys and securities for money, and articles of value reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein, and to search all parts of the house, room or place, which he shall have so entered when he shall have reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he shall so find therein to take into custody, and to seize and take possession of all instruments of gaming found upon such search.

and seizure of gaming instruments.

6. When any cards, dice, counters, cloth, board or other instruments of gaming used in playing any game not being a game of mere skill are found in any house, room or place situated within the limits aforesaid, suspected to be used as a common gaming-house, and entered under warrant issued under the provisions of this Act, or are found about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, room or place is used as a common gaming-house, and that the persons found in the room or place where such instruments of gaming shall have been found were playing therein, or were there present for the purpose of gaming, although no play was actually going on in the presence of the inspector or superior officer of Police entering the same, or in the presence of those persons by whom he shall be assisted as aforesaid.

Proof of keeping, or of gaming in, a common gaming-house.

7. On conviction of any person for keeping any such common gaming-house, or playing or gaming therein, or being present therein for the purpose of gaming, it shall be lawful for the convicting Magistrate to order all the instruments of gaming found therein, or on the persons of those who were found therein, to be forthwith destroyed.

On conviction for keeping, or gaming in, common gamming-house, instruments of gaming may be destroyed.

8. It shall not be necessary in order to convict a person of any offence against any of the provisions of sections 3 and 4 of this Act to prove that any person found playing at any game was playing for any money, wager or stake.

Proof of playing for money not required for conviction.

9. Every person who shall have been concerned in any gaming contrary to this Act, and who shall be examined as a witness by or before a Magistrate on the trial of any charge against the owner, keeper or occupier or other person having the care or management of any common gaming-house, touching such gaming, and who upon such examination shall make true and faithful discovery to the best of his knowledge of all things as to which he shall be so

Indemnification of persons concerned who are examined as witnesses

examined, and who shall thereupon receive from the said Magistrate a certificate in writing to that effect, shall be freed from all prosecutions under this Act for any thing done before that time in respect of such gaming.

Payment of portion of fine to informer.

10. The Magistrate trying any case under the provisions of sections 3 and 4 of this Act may direct any portion, not exceeding one-fourth of any fine which may be levied under either of the said sections, to be paid to an informer.

Power to arrest without warrant for gaming, and setting birds and animals to fight, in public streets.

11. A Police-officer may apprehend without warrant—

any person found playing for money or other valuable thing with cards, dice, counters or other instruments of gaming used in playing any game not being a game of mere skill, in any public street, place or thoroughfare situated within the limits aforesaid, or

any person setting any birds or animals to fight in any public street, place or thoroughfare, situated within the limits aforesaid, or

any person there present aiding and abetting such public fighting of birds and animals,

and such person when apprehended shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty rupees, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month,

Seizure and destruction of instruments found.

and such Police-officer may seize all instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the Magistrate may on conviction of the offender order such instruments to be forthwith destroyed.

Saving of games of mere skill.

12. Nothing in this Act shall be held to apply to any game of mere skill wherever played.

Offences by whom triable.

13. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed.

Such Magistrate shall, however, be restrained within the limits of his jurisdiction under the Code of Criminal Procedure as to the amount of fine or imprisonment he may inflict.

"Common gaming-house" defined.

14. The words "common gaming-house" shall be taken to mean any house, room or place in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning or keeping such house, room or place, whether by way of charge for the use of the instruments of gaming, or of the house, room or place, or otherwise howsoever.

ACT No. VII of 1866.

Received the Governor's assent on the 28th of April, 1866, and the Governor General's assent on the 15th of May, 1866.

An Act to limit the liability of a son, grandson or heir of a deceased Hindú for the debts of his ancestor, and the liability of the second husband of a Hindú widow for the debts of her deceased husband, and otherwise to amend the law of debtor and creditor.

Preamble. WHEREAS, according to the law in force, as applied to Hindús by the High Court of Judicature at Bombay in the exercise of its ordinary original civil jurisdiction, no son or grandson of a deceased Hindú is liable for the debts of his ancestor merely by reason of his being such son or grandson, and no son, grandson or other heir of a deceased Hindú, who has received assets of the deceased, is merely from that circumstance liable for the debts of his ancestor beyond the amount of the assets received, and no person marrying a Hindú widow is liable in consequence of such marriage for the debts of her former or any prior deceased husband; and whereas a different law is applied to Hindús by the civil Courts which exercise jurisdiction in places beyond the local limits of the ordinary original civil jurisdiction of the said High Court, and it is expedient to amend the law as applied by such other Courts, and to make the law in that respect uniform throughout the Presidency of Bombay; and whereas it is also expedient to limit the liability of a Hindú for a family-debt contracted when he was unborn or under twenty-one years of age; It is hereby enacted and declared as follows:—

Hindú son or grandson not liable as such for debt of ancestor.

1. No son or grandson of a deceased Hindú shall, merely by reason of his being such son or grandson, be liable to be sued for any of the debts of such deceased Hindú.

Heir to be liable as representative of deceased ancestor only to extent of assets received.

2. No son, grandson or heir of a deceased Hindú, who has by himself or his agent received or taken possession of any property belonging to the deceased, shall be liable personally for any of the debts of the deceased, merely by reason of his having so received or taken possession of any such property; but the liability of such son, grandson or heir, in respect of such debts, shall be as the representative of such deceased Hindú, and shall be limited to paying the sum out of and to the extent of the property of the deceased which such son, grandson or heir, or any other person by his order or to his use, has received or taken possession of as aforesaid, and which remains unapplied:

Liability in respect of assets received

Provided that if any part of such property so received or taken possession of as aforesaid shall not have been duly applied by such son, grandson or heir,

and not applied.

he shall be liable personally for such debts to the extent of the property not duly applied by him.

3.—[*Repealed by Act No. XII of 1873.*]

Husband of Hindú widow not liable for debt of deceased former husband.

4. No person who has married a Hindú widow shall, merely by reason of such marriage, be liable for any of the debts of any prior deceased husband of such widow.

Liability of member of undivided Hindú-family for family-debts contracted during his minority.

5. Where a debt is contracted after this Act shall come into operation by one or more members of an undivided Hindú family, under such circumstances as that the same forms the debt of the undivided family, no member of such undivided family, who is unborn or under the age of twenty-one years at the time of the contracting of such debt, shall be liable personally to pay the same, but such member shall only be liable to pay the same out of and to the extent of the property of the undivided Hindú-family, and of the separate property, if any, belonging to any deceased members of the undivided family who were above the age of twenty-one years at the time of the contracting the same, received or taken possession of by such member or any other person by his order or to his use and remaining unapplied, unless any part of such property so received or taken possession of as aforesaid shall not have been duly applied by such member, in which case he shall be further liable personally for such debt to the extent of the property not duly applied by him.

Saving of liability of surviving member of undivided Hindú-family.

6. Except as provided in section 5 of this Act, nothing in this Act contained shall be construed as limiting or affecting the liability of any person as surviving member or one of the surviving members of an undivided Hindú-family for any debt contracted under such circumstances as that the surviving member or surviving members of such undivided family is or are by the law now in force liable to pay the same.

Interpretation—"debts."

7. The term "debt," as used in this Act, shall be construed to include all liabilities arising out of any claims which could or might be enforced against a deceased Hindú himself if living, and for which a suit would lie against his representative.

and—unless there be something in the context or subject repugnant to such construction—

Number.

words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number, and

Gender.

words importing the masculine gender shall include females.

8.—[*Repealed by Act No. XII of 1873.*]

Short title.

9. This Act may be cited for all purposes as the "Bombay Hindú Heirs' Relief Act, 1866."

ACT No. VIII OF 1866.

Received the Governor's assent on the 25th of April, 1866, and the Governor General's assent on the 19th of May, 1866.

An Act to regulate and restrict the sale of poisons in the Bombay Presidency.

Preamble. WHEREAS it is expedient to enact one general law relating to the sale of poisonous drugs and deleterious substances in the Bombay Presidency, and to regulate and restrict the sale of such drugs and substances; It is enacted as follows:—

1.—[*Repealed by Act No. XII of 1873.*]

Interpretation-clause. 2. The following words and expressions in this Act shall have the meanings hereby assigned to them—that is to say—

"Month." the word "month" shall mean calendar month according to the British calendar:

"Poison." the word "poison" denotes the poisonous drugs and deleterious substances specified in schedule (A) to this Act annexed:

"Offender." the word "offender" shall include an incorporated association of persons:

"Magistrate." the word "Magistrate" denotes, in places within the present local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Bombay, a Magistrate of Police, and in places beyond those local limits a person invested with the powers of a Magistrate under the Code of Criminal Procedure:

"Person." the word "person" shall, unless there be something in the subject or context repugnant to such construction, include any association or body of persons whether incorporated or not.

Sellers of poisons to be licensed. 3. No person shall sell any of the poisons specified in the schedule (A) annexed to this Act without holding a license of one or other class as hereinafter provided.

Licenses granted in Bombay by municipal commissioner, and in mufassal by Collector. 4. Every license under this Act shall, within the present local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Bombay, be granted by the municipal commissioner for the city of Bombay, or by some person authorized by him on that behalf, and in places beyond those local limits by the Collector, or by some person authorized by him on that behalf;

Form of licenses. and every such license may be in the form contained in the schedule (B) annexed to this Act, but no license shall authorize a sale except at some place within the limits of the jurisdiction of the officer empowered to grant and granting the same.

Licenses to be of two classes.

5 Licenses shall be of two classes, that is to say, an ordinary license for which a fee of five rupees shall be paid, and a special license for which a fee of fifty rupees shall be paid:

License-fees.

Provided that a person applying for a license under this Act shall not have the option of taking out a special license in lieu of an ordinary license, but it shall be discretionary with the Commissioner or Collector, as the case may be, to determine whether he will grant a special license to the party applying for the same.

Duration of licenses.

6. Every license shall have effect and continue in force from the date of the grant thereof until the thirty-first day of December next ensuing, but any person to whom such license shall be granted after the first day of July of any year shall pay only one-half of the fee payable for the same, having regard to the class to which it belongs.

Fee for license granted in second half of year.

Renewal of ordinary license.

7. Every person to whom an ordinary license shall have been granted and who shall be desirous of continuing to sell any of the poisons specified in schedule (A) after the expiration of the said license shall, before its expiration, take out a fresh license for that purpose for the following year, and shall in like manner renew the same from year to year, so long as he shall desire to continue to sell such poisons, and upon each renewal of the license shall pay to the officer granting the same a further fee of five rupees.

Renewal of special license.

8. The Commissioner or Collector, as the case may be, may in his discretion grant a fresh special license to any person to whom a special license shall have been granted under this Act, and who shall be desirous of continuing to sell any of the poisons specified in schedule (A) after the expiration of such license, and may also renew the special license from year to year so long as the applicant shall desire to continue to sell such poisons, and as often as the Commissioner or Collector shall in his discretion think fit to renew the same, provided that the application for the grant of a fresh special license or for a renewal of the same be made before the expiration of the current license, and that upon each fresh grant and renewal the applicant shall pay to the officer granting the same a further fee of fifty rupees.

License for firm sufficient if taken out by one member.

9. Where the person taking out a license under this Act shall be the member of a firm or of an incorporated Company, it shall not be necessary that any other member of the firm or Company shall take out a license to authorize a sale by such firm or Company of the poisons specified in schedule (A) within the local limits of the jurisdiction of the officer granting such license.

Appropriation of license-fees and fines.

10. The expenses incurred in carrying out the provisions of this Act in regard to the grant and renewal of licenses shall be paid from the proceeds of the fees, fines and penalties levied under this Act, and the portion of such proceeds remaining after the payment of the said expenses shall, within the

present local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Bombay, be paid annually to the credit of the municipal fund of the city of Bombay, and in places beyond those local limits the balance remaining shall be paid, as to the Collector may seem fit, to the credit of some municipal or local fund of the district for which the licenses issue and the fines and penalties are levied; and the portions so paid shall be available to meet the general expenses chargeable to the said municipal or local funds.

Penalty for selling poisons without license.

11. If any person who is by this Act required to take out a license or renew the same shall sell any of the poisons specified in schedule (A) without having duly taken out a license or renewed the same, in accordance with the provisions of this Act, he shall be liable, on conviction before a Magistrate, to be punished for a first offence with fine which may extend to two hundred rupees, and for a second or subsequent offence with fine which may extend to five hundred rupees, or with simple imprisonment for a term which may extend to one year, or with both.

Penalty for refusing to produce license when required.

12. Any person required by this Act to take out a license who shall without reasonable excuse neglect or refuse to produce and show his license when required to do so by an officer duly empowered in writing by the municipal commissioner or by the Collector, as the case may be, to make such requisition, shall, on conviction before a Magistrate, be liable to a penalty not exceeding one hundred rupees.

On every sale of poison, particulars to be entered in book by seller, in form in schedule (C).

13. Every person who shall sell any of the poisons specified in schedule (A) shall forthwith, and before the delivery of such poison to the purchaser, enter or cause to be entered, in a fair and regular manner, in a book to be kept by such person for that purpose, in the form set forth in the schedule (C) annexed to this Act, or to the like effect,

a statement of such sale, with the name of the poison and quantity thereof so sold, and the purpose for which such poison is required, or stated to be required, and

the day of the month and year of the sale, and the name, place of abode and condition or occupation of the purchaser,

into all which circumstances the person selling such poison is hereby required and authorized to inquire of the purchaser, before the delivery to such purchaser of the poison sold;

and such entries shall in every case be signed by the person making the same, and shall also be signed by the purchaser, unless such purchaser profess to be unable to write (in which case the person making the entries hereby required shall add to the particulars to be entered in relation to such sale the words "cannot write,") and, where a witness is hereby required to the sale, such entries shall also be signed by such witness, who shall add his place of abode.

Restrictions as to sale of poisons

14. No person shall sell any of the poisons specified in schedule (A) to any person who is unknown to the person selling such poison, unless the sale be made in the presence of a witness who is known to the person selling the poison, and to whom the purchaser is known, and who signs his name, together with his place of abode, to such entries, before the delivery of the poison to the purchaser.

Sale of poisons by special licensee to absent purchasers

15. When the purchaser of any of the poisons specified in schedule (A) is absent at the time of sale, it shall be lawful for the holder of a special license under this Act to sell and deliver any of the said poisons in pursuance of the written order of a purchaser, provided such order is received by the special licensee in the ordinary course of business, and is signed by the purchaser, and provided that the handwriting of the purchaser who signs such order is known to the special licensee, and upon every sale under this section the special licensee shall forthwith enter or cause to be entered in a book to be kept by him for the purpose, a statement of such sale, with the name of the poison and quantity thereof so sold and the date of sale, and the name and address of the purchaser in pursuance of whose written order the sale is made, and such entries shall in every case be signed by the person making the same.

Poison not to be sold to minor.

16. No person shall sell poison to any one who the seller in good faith believes is below the age of eighteen years.

Provision for colouring arsenic.

17. No person shall sell any white arsenic in a ground or pounded state unless the same be, before the sale thereof, mixed with soot, indigo or Prussian blue, in the proportion of one ounce of soot or half an ounce of indigo or Prussian blue, at the least, to one pound of the arsenic, and so in proportion for any greater or less quantity:

Provided always, that where such arsenic is stated by the purchaser to be required, not for use in agriculture, but for some other purpose, for which such admixture would, according to the representation of the purchaser, render it unfit, such arsenic may be sold without such admixture in a quantity of not less than two pounds at any one time.

Penalty for certain offences

18. If any person shall sell any of the poisons specified in schedule (A) in contravention of any of the provisions of sections 13, 14, 15, 16 or 17 of this Act, or

if any person purchasing any poison shall give false information to the person selling the same in relation to any of the particulars which such last-mentioned person is authorized to inquire into of such purchaser, or

if any person shall sign his name as a witness to a sale of poison to a person unknown to the person so signing as witness,

every person so offending shall, for every such offence, upon conviction for the same before a Magistrate, be liable to a penalty not exceeding two hundred

rupees, and where the person so convicted shall hold a license under this Act he shall also be liable, by order of the Magistrate, to the forfeiture of his license for the current year.

Act not to prevent sale of poisons in medicine under medical prescription, or wholesale dealing in poisons.

19. Provided that nothing contained in sections 13, 14, 15, 16 or 17 of this Act shall be construed to apply the sale of any poison

when the same is required as medicine according to the written order or prescription of any person who shall be a graduate of medicine in any University, or who shall have obtained the diploma of any public medical examining body, or who holds or has at any time held the appointment of apothecary under Government, or

upon the personal application of a person known to the seller to be in good repute and practising medicine,

nor to apply to the sale of any poison when the same forms the whole or part of the ingredients of any medicine required to be made up or compounded according to the prescription or upon the personal application of any of the persons in this section above specified,

nor to apply to the sale of poisons by wholesale to retail-dealers upon orders in writing in the ordinary course of wholesale dealing.

Levy of fines.

20. All fines and penalties imposed by a Magistrate under the authority of this Act, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender by warrant of the Magistrate.

Order for detention on issue of distress-warrant.

When a warrant of distress is issued, the Magistrate may order the offender to be detained and kept in safe custody, until return can be conveniently made to such warrant, unless the offender enter into a recognizance, with or without sureties, conditioned for his appearance before him on the day appointed for such return, such day being not more than eight days from the time of taking such recognizance;

When Magistrate may refrain from issuing distress-warrant.

but if, before issuing such warrant of distress, it shall appear to the Magistrate, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Magistrate whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant of distress;

Commitment to gaol.

and in such case, or if such warrant shall have been issued, and upon the return thereof, such insufficiency as aforesaid shall be made to appear to the Magistrate, he shall, by warrant, commit the offender to gaol, there to suffer simple imprisonment for any term not exceeding two months where the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four months where the amount shall not exceed one hundred rupees, and for any term not exceeding six months in any other case; the commitment to be

determinable in each of the cases aforesaid on payment of the amount of the fine or penalty.

Extent.

21. This Act shall not come into operation in any place in the Bombay Presidency except within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Bombay and the places subject to the general Regulations in force in the Presidency until it shall be extended thereto by an order of the Governor in Council, to be notified in the Government Gazette;

Power to declare, in extending Act, by whom duties to be performed, &c.

and it shall be lawful for the Governor in Council, in so extending this Act, to declare by whom the duties assigned by this Act to the Collector shall be performed, and by whom fines and penalties under this Act shall be inflicted in the place to which the Act shall be so extended; and to direct the manner in which the proceeds of the fees, fines and penalties levied under this Act in such place shall be appropriated and expended, and further by any subsequent order to suspend, alter or revoke any order passed under this section, provided such suspension, alteration or revocation is made before this Act has by virtue of any prior order come in force in such place.

SCHEDULE A.

(*Referred to in section 3*).

VEGETABLE POISONS.

Name of poison.	Native name.
Aconite	Bachnág.
Cocculus Indicus	Kákmarí, Kákphúl.
Datura	Dhatúrá.
Henbane	Khorásáni Ajwán.
Nux-vomica	Kuchlá and Kajra.
Saint Ignatius' Bean	Papíta.
Calabar Bean	

MINERAL POISONS.

Name of poison.	Native name.
White Arsenic	Phatkya Sammul. / Sammul.
Red Arsenic (Realgar)	Manefil.
Yellow Arsenic (Orpiment)	Hartál.
Scheele's Green (Arsenite of copper) ...	Hirwá.
Schweinfurth Green (Aceto-arsenite of copper)	Hirwá.
Corrosive Sublimate...	Raskapúr.

SCHEDULE B.

(*Referred to in section 4.*)

FORM OF ORDINARY (*or* SPECIAL, *as the case may be*) LICENSE FOR THE SALE OF POISONOUS SUBSTANCES (*to be in English or a Vernacular language*).

I, *A. B.*, hereby grant an ordinary (*or* special, *as the case may be*) license to *C. D.* (*name of person or Company*), to sell within the (local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Bombay, *or* the District of , *as the case may be*), from the date hereof to the thirty-first December next, the poisonous substances specified in Bombay Act No. VIII of 1866. The said *C. D.* will conform to the rules contained in the said Act, on failure whereof, this license shall be liable to be forfeited.

(*Signed*) *A. B.*,
Municipal Commissioner (*or* Collector).

Office,

SCHEDULE C.

(*Referred to in section 13.*)

FORM OF ENTRY OF SALE OF POISON (*to be in English or a Vernacular language*).

Date of sale.	Name and surname of purchaser	Purchaser's place of abode.	Condition or occupation.	Poison sold.	Quantity sold.	Purpose for which required or stated to be required.

Purchaser's signature, or, if purchaser cannot write, his mark to be put for him, and the words "cannot write" added

Witness' signature and place of abode.

Seller's signature.

ACT No. X of 1866.

Received the Governor's assent on the 28th of April, 1866, and the Governor General's assent on the 15th of May, 1866.

An Act to shorten the language used in Acts of the Governor of Bombay in Council, and to make certain provisions regarding thereto.

Preamble. WHEREAS it is expedient to enact once for all certain definitions of terms usually employed in the Acts of the Governor of Bombay in Council, and to make certain other provisions regarding such Acts; It is enacted as follows:—

General interpretation clause for Bombay Acts. 1. In every Act of the Governor of Bombay in Council hereafter to be made, the following words and expressions shall have the several meanings hereby assigned to them unless it be otherwise provided by the Act, or unless there be something either in the subject or context repugnant to such construction, that is to say,—

Number. (1) words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number:

Gender. (2) words importing the masculine gender shall include the feminine gender:

"Person." (3) the word "person" shall include any Company or association or body of persons whether incorporated or not:

"Month." (4) the word "month" shall mean calendar month according to the British calendar:

"Year." (5) the word "year" shall mean a year according to the British calendar:

"Government." (6) the word "Government" shall denote the Governor of Bombay in Council:

"Magistrate." (7) the word "Magistrate" shall denote any person exercising the full powers of a Magistrate under the Code of Criminal Procedure:

"Magistrate of Police." (8) the words "Magistrate of Police" shall denote any person exercising the powers of a Magistrate of Police within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Bombay for the time being:

"Oath." (9) the word "oath" shall include any affirmation or declaration lawfully substituted for an oath, or any declaration required or authorized by law to be made:

"City of Bombay" (10) the words "city of Bombay" shall denote such places as are within the local limits for the time being of the ordinary original civil jurisdiction of the High Court of Judicature at Bombay:

(11) the words "regulation districts" shall denote those parts of the territories subject to the Government of Bombay which have been or shall be brought under the general Regulations of Bombay, and in which the same are now or shall be in force: "Regulation districts."

(12) the words "Presidency of Bombay" shall denote all the territories subject to the Government of Bombay. "Presidency of Bombay"

2. Where any Act repealing in whole or in part any former enactment is itself repealed, such last repeal shall not revive the enactment or any of the provisions thereof before repealed, unless words be added reviving such enactment or provisions. Repeal of Act not to revive laws repealed thereby.

3. Where any Act shall be passed repealing in whole or in part any former enactment, and substituting some provision or provisions instead of the provision or provisions repealed, such provision or provisions so repealed shall remain in force until the substituted provision or provisions shall come into operation by force of the last made Act. Repealed and superseded parts of Act to remain in force till superseding law comes into force.

4. Where, by any Act heretofore made or hereafter to be made, any order, matter or thing is required to be notified or published by the Government or Governor of Bombay in Council, such notification or publication shall (unless it is otherwise provided by the Act) be made in the *Bombay Government Gazette*, and judicial notice of such notification or publication shall be taken by all Courts of Justice, whether exercising civil or criminal jurisdiction or any other jurisdiction whatsoever, and by all persons having by law or consent of parties authority to take evidence. Publication of orders required by any Act to be published. Judicial notice to be taken of such publication.

5.—[*Repealed by Act No. XV of 1874.*]

6. Where, by this Act or by any Act heretofore made or hereafter to be made, the Government or the Governor of Bombay in Council is empowered to extend or apply an Act or any of the provisions of an Act to any place or places within the territories subject to the Government of Bombay, it shall be lawful for the Governor of Bombay in Council (unless it is otherwise provided by the Act) What may be provided for in order extending enactment under power conferred by law.

to notify in the order extending or applying the same, the time at which the Act or any of its provisions so extended or applied shall come into operation in such place or places, and also in such order

to direct by whom any powers or duties incident to the provisions contained in the Act shall and may be exercised, and also in such order

to introduce any other directions which may be deemed requisite for carrying into operation in such place or places the Act or any of its provisions,

and it shall also (unless it is otherwise provided by the Act) be lawful for the Governor of Bombay in Council by any subsequent order or orders

to postpone the time at which the Act or any of its provisions shall come

into operation in such place or places, or otherwise to alter any prior order or orders in any of the above particulars, or altogether to annul any prior order or orders,

provided that any subsequent order postponing the time or altering or annulling any prior order shall be made before the Act or any of its provisions is actually in force in such place or places by virtue of any prior order of the Governor of Bombay in Council made under this Act or the Act empowering the extension or application of such Act.

Commencement of Acts.

7. Where in any Act no time is mentioned at which the same shall come into operation, such Act shall come into operation upon the first publication by the Governor of Bombay of the assent thereto of the Governor General of India, and in every Act the date of the first publication shall be printed either above or below the title of the Act and shall form part of every such Act.

Date of publication to form part of Acts.

8, 9.—[*Repealed by Act No. XII of 1873.*]

"Act" defined.

10. In the preceding sections, the word "Act" denotes an Act of the Governor of Bombay in Council constituted for the purpose of making laws and Regulations, and such Act shall be deemed to be made when and as soon as the assent thereto of the Governor General of India has been published by the Governor of Bombay in pursuance of section 40 of "The Indian Councils' Act, 1861."

Short title.

11. This Act may be cited for all purposes as "The Bombay General Clauses Act, 1866."

ACT No. XII OF 1866.

Received the Governor's assent on the 25th of April, 1866, and the Governor General's assent on the 2nd of June, 1866, and published by the Governor on the 11th of July, 1866.

An Act to declare the constitution of Courts of civil and criminal judicature in the Province of Sindh.

Preamble.

WHEREAS it is expedient to declare by law the constitution of the Courts of civil and criminal judicature in the Province of Sindh, and to provide for the due administration of justice therein; It is declared and enacted as follows:—

Sadr Court.

1. There shall be in the Province of Sindh a Sadr Court, which shall be the highest Court of appeal in civil and criminal matters in the said Province, within the meaning of the Codes of Civil and Criminal Procedure. The Sadr Court shall be presided over by a Judge appointed by the Governor of Bombay in Council, and such Judge may also be the Judicial Commissioner of the Province of Sindh.

District Courts.

2. There shall be in each district in the Province of Sindh a District Court; and every such Court shall be presided over by a Judge appointed by the Governor of Bombay in Council, by whom only he shall be liable to be suspended or removed.

Jurisdiction of District Court.

3. The District Court shall, within the meaning of the Code of Civil Procedure, be the principal Court of original civil jurisdiction in the districts in which it is established, and shall also exercise the jurisdiction vested in the Court of Session by the Code of Criminal Procedure, or by any other law for the time being in force in the Province of Sindh.

Subordinate civil Courts.

4. There shall be, in each district in the Province of Sindh, so many subordinate civil Courts as the Governor of Bombay in Council, acting under the general control of the Governor General of India in Council, shall from time to time direct.

Every such Court shall be a subordinate Court of original civil jurisdiction within such limits as the Commissioner in Sindh, with the sanction of the Governor of Bombay in Council, shall from time to time determine, and shall be presided over by a Judge appointed by the Commissioner in Sindh.

Jurisdiction of subordinate civil Court.

5. Unless otherwise provided by any law for the time being in force, the jurisdiction of every such subordinate Court shall extend to all suits and proceedings of a civil nature wherein the value or subject-matter of the claim shall not exceed five thousand rupees.

Regular appeals to Sadr Court.

6. A regular appeal shall lie from the decisions of the Judge of a District Court in the exercise of his original civil jurisdiction to the Sadr Court, whenever such appeal is allowable under the Code of Civil Procedure, or under any other law for the time being in force in the Province of Sindh.

Applications may be forwarded to Sadr Court by post.

7. It shall be lawful for the Sadr Court to receive applications forwarded by post, duly registered, and to proceed thereupon in the same manner as if such applications had been presented in person or by pleader, any law to the contrary notwithstanding.

Regular appeals to District Court.

8. A regular appeal shall lie from the decisions of the Judge of a subordinate Court to the District Court of the district within which such subordinate Court is situated, whenever such appeal is allowable under the Code of Civil Procedure, or under any other law for the time being in force in the Province of Sindh.

Removal of Judge of subordinate civil Court.

9. It shall be competent to the Sadr Court to suspend or to remove from office, for misbehaviour or neglect of duty, any Judge of a subordinate Court.

Appointment and removal of officers of Sadr, District

10. It shall be lawful for the Judge of the Sadr Court to appoint to such Court, and for the Judge of a District Court to appoint to such Court and to the subordinate Courts of that district, so many and such officers as the

and subordinate Courts.

Governor of Bombay in Council, acting under the general control of the Governor General of India in Council, shall from time to time direct, and, for misbehaviour or neglect of duty, to suspend or remove any such officer:

Provided that no officer who is in receipt of a monthly salary amounting to thirty rupees shall be removed without the sanction of the Sadr Court:

and provided also that all bailiffs, messengers, peons and ministerial servants of a subordinate Court who receive a monthly salary not exceeding ten rupees, shall be appointed by the Judge of such Court, by whom also they may be suspended or removed.

Seal.

11. Every Court shall use a seal on which shall be engraved the title of such Court.

Certain laws extended to Sindh.

12. The provisions of Regulation VIII of 1827[a] of the Bombay Code (*"A Regulation to provide for the formal recognition of heirs, executors and administrators, and for the appointment of administrators and managers of property by the Courts"*), and of Act XIX of 1841[b] (*"An Act for the protection of moveable and immoveable property against wrongful possession in cases of successions"*), are hereby extended to the Province of Sindh.

Power to receive and act upon affidavits and affirmations.

13. It shall be competent to the Sadr Court and to the District Courts to receive as evidence, and to act upon, affidavits or solemn affirmations, in writing, produced in support of or in resistance to any interlocutory application or motion before them.

Affidavits before whom sworn.

14. Such affidavits or solemn affirmations may be sworn or affirmed before an officer appointed for that purpose by the Court in which the same are to be used, or before any Magistrate or Justice of the Peace.

Execution of decrees for debt against certain privileged persons.

15. No decree for payment of debt passed by any Court shall be executed against a defendant who is one of the persons mentioned in the schedule annexed to this Act, except in such manner as shall be directed in a special order by the Commissioner in Sindh, to whom a copy of the decree and of the application for execution shall be forwarded by the Court in which such application is presented.

Power to make rules for admission and removal of pleaders; to remove and suspend them

16. It shall be competent to the Sadr Court, with the sanction of the Governor of Bombay in Council, to make rules for the qualification and admission of proper persons to be pleaders in any Court in the Province of Sindh;

and it shall also be competent to the Sadr Court to remove or to suspend from practice, for misbehaviour, any person so admitted to be a pleader.

Publication of rules.

The rules made and sanctioned under this section shall be published in the Government Gazette.

Sadr Court

17. The Sadr Court shall from time to time prescribe and regulate the fees

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[a] See *supra*, p. 7

[b] See General Acts, vol. I, p. 40.

to be taken for any process issued by any Court, the constitution of which is declared by this Act, or by any officer of any such Court, and also the fees which shall be payable in any suit or proceeding in any such Court by any party to such suit or proceeding in respect of the fees of the pleader of any other party to such suit or proceeding. to prescribe fees.

Tables of the fees so prescribed shall be published in the Government Gazette. Publication of table of fees.

18, 19, 20.—[*Repealed by Act No. XII of 1873.*]

21. Nothing contained in this Act shall be construed to apply to that portion of the Province of Sindh which is now in charge of the Political Superintendent of Tharr and Parkar; but all existing rules for the administration of justice in that portion of the said Province shall continue in force in the same manner as if this Act had not been passed : Certain places excepted from operation of Act.

Provided that all or any of the provisions of this Act may, by an order of the Governor of Bombay in Council, to be published in the Government Gazette, be extended to the whole or to any part of the said portion of the Province of Sindh. Extension of Act to such place.

SCHEDULE.[a]

(*Referred to in section 15.*)

1. His Highness Mír Husain Alí Khán.
2. His Highness Mír Hasan Alí Khán.
3. His Highness Mír Sher Muhammad Khán.
4. His Highness Mír Imám Baksh Khán.
5. His Highness Mír Alí Madád Khán.
6. His Highness Mír Muhammad Khán.
7. His Highness Mír Shah Nawáz Khán.
8. His Highness Mír Abdul Husain Khán.
9. His Highness Mír Shah Muhammad Khán.
10. His Highness Mír Khán Muhammad Khán.
11. Widow of H. H. Mír Núr Muhammad Khán, daughter of H. H. Mír Fatch Alí Khán.
12. Widow (second wife) of H. H. Mír Mír Muhammad Khán, daughter of H. H. Mír Fatch Alí Khán.
13. Wife of H. H. Mír Husain Alí Khán, daughter of H. H. Mír Nasír Khán.

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[a] Substituted by Bombay Act No. III of 1868.

14. Wife of H. H. Mír Hasan Alí Khán, daughter of H. H. Mír Núr Muhammad Khán.
15. Wife of H. H. Mír Muhammad Khán, daughter of H. H. Mír Sobdár Khán.
16. Daughter of H. H. Mír Murád Alí Khán.
17. Widow of Mír Abdula Khán, daughter of H. H. Mír Núr Muhammad Khán.
18. Widow (third wife) of H. H. Mír Murád Alí Khán, daughter of Mubárak Khán Bhurgarí.
19. Widow (second wife) of H. H. Mír Núr Muhammad Khán, daughter of Malik Sobdár Numriya.
20. Widow (third wife) of H. H. Mír Kuram Alí Khán, daughter of Malik Ahmad Khán Numriya.

ACT No. XIII of 1866.

Received the Governor's assent on the 12th of October, 1866, and the Governor General's assent on the 29th of October, 1866, and published by the Governor on the 15th of November, 1866.

An Act to provide for the Attendance and Examination of Witnesses before the Council of the Governor of Bombay assembled for the purpose of making Laws and Regulations.

Preamble.

WHEREAS it is expedient to make provision for the attendance of witnesses before the Council of the Governor of Bombay assembled for the purpose of making Laws and Regulations, and for the examination of such witnesses; It is enacted as follows:—

Governor may by summons require person to appear before Council.

1. It shall be lawful for the Governor of Bombay by a summons under the hand of the secretary to require the attendance before the Council of the Governor of Bombay assembled for the purpose of making Laws and Regulations, at a time and place to be mentioned in such summons, of any person residing or being within the Presidency of Bombay, whose evidence shall in the judgment of the said Council be material with reference to any measure, Bill or Act then under consideration by the said Council, and by such summons to require the person so summoned to produce before the said Council all such books, deeds, writings and documents as to the said Council shall appear necessary for obtaining information as to the matter so under consideration;

and every person so summoned shall according to the exigency of the sum-

mons attend before the said Council and produce such books, deeds, writings and documents as shall be in his possession, power or control.

Administration of an oath or affirmation.

2. It shall be lawful for the said Secretary or any other officer appointed in that behalf by the Governor of Bombay to administer an oath or affirmation, in such form as to the said Council shall seem fit, to any person appearing in obedience to such summons as aforesaid; and the person to whom such oath or affirmation shall be administered shall be bound to state the truth. But nothing herein contained shall prevent such person from giving evidence without oath or affirmation if the said Council shall think it expedient that the evidence should be so given.

Powers against persons failing to appear.

3. If any person upon whom any such summons shall be served by the delivery thereof to him, or leaving thereof at his usual or last known place of abode, shall without such cause as may be deemed reasonable by the said Governor of Bombay fail to appear before the said Council at the time and place mentioned in the summons, or shall refuse to make oath or affirmation as required, or shall not make answer to such questions as shall be put to him touching the matter under consideration as aforesaid, or shall refuse or fail without such cause as may be deemed reasonable by the said Governor of Bombay to produce to the said Council any book, deed or writing in his possession power or control as by the said Council he shall be required to produce (whether, mentioned in the summons or not), the Governor of Bombay shall, on the report of the said Council that such failure or refusal has taken place, have the power by warrant under his hand to direct that such person be apprehended and committed to and detained in close custody in a place and for a time specified in the warrant, until he shall comply to the satisfaction of the said Council with such requisitions as have been made on him touching his examination.

The warrant shall specify the person or persons by whom such apprehension, committal and detention shall be made.

Expenses of witnesses.

4. Whenever a summons is issued for the attendance of a witness under this Act, such witness shall be entitled to receive from the Collector or Commissioner of the district or place in which the witness resides such expenses as he would have been entitled to receive if summoned as a witness before the principal Court of original civil jurisdiction within the local limits of which he shall be residing.

5.—[*Repealed by Act No. XII of 1876.*]

Interpretation clause.

6. The word "Council" shall include any Select Committee of the Council of the Governor of Bombay assembled for the purpose of making Laws and Regulations under the provisions of "The Indian Councils' Act, 1861":

the word "secretary" shall mean the secretary to the Government of Bom-

bay in the Legislative or Judicial Department, and shall include an Under-Secretary, Assistant Secretary and Deputy Secretary to the Government of Bombay.

ACT No XIV of 1866.

Received the Governor's assent on the 23rd of October, 1866, and the Governor General's assent on the 22nd of November, 1866, and published by the Governor on the 7th of December, 1866

An Act to bring the parganas of Edulábád and Warangáon under the general Regulations and Acts of the Presidency of Bombay.

Preamble—[*Repealed by Act No XII of 1876*]

1—[*Repealed by Act No XII of 1876*]

2—[*Repealed by Act No X of 1876*]

Privileges and exemptions of certain persons of rank

3 The privileges and exemptions provided in sections 3, 4 and 5, Regulation XXIX, A D 1827[a] (*A Regulation for bringing under the operation of the Regulations the Bombay Territories in the Dekkhan and Khandesh*), and section 5 of Regulation VII, A D 1830[b] (*A Regulation for bringing under the operation of the Regulations the Territories comprised in the Southern Mahratta Country, belonging to the Honourable Company, and forming the said Territories into a Zila*), and Regulation I, A D 1831[c] (*A Regulation for extending the Jurisdiction of the Agent of Government acting under the provisions of section 4, Regulation XXIX of 1827, over suits in which persons of rank of the privileged classes are concerned, and which are now cognizable by the Collectors of Land-revenue*), and Regulation XVI, A D 1831[d] (*A Regulation for extending the Jurisdiction vested in the Political Agent in the Southern Mahratta Country under the provisions of section 5, Regulation VII, A D 1830, to the cognizance of civil suits of the nature specified in Regulation I, A D 1831, and also for the better defining the extent of Jurisdiction therein conferred with respect to persons of the privileged classes*), as amended by section 6, Act XIII of 1842[e] (*An Act to enable the holders of revenue which has been alienated to them by the State to collect that revenue within the Presidency of Bombay*), are applicable in the districts now brought under the Regulations and Acts to the persons of rank therein referred to, in the same manner as they are in the rest of Khándesh and the Dekkhan

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[a] See *supra*, p 28
[b] See *supra*, p 35
[c] See *supra* p 45
[d] See *supra*, p 46
[e] Repealed by Bombay Act No V of 1879.

ACT No. III OF 1867.

Received the Governor's assent on the 7th of May, 1867, and the Governor General's assent on the 1st of June, 1867 and published by the Governor on the 24th of June, 1867.

An Act to make provision for the administration of military cantonments in the Bombay Presidency.

Preamble. WHEREAS it is expedient to make provision for regulating the administration of civil and criminal justice, and the superintendence of Police and conservancy, for protecting the public health within the limits of military cantonments, and for laying down local rules to be enforced within such limits; It is enacted as follows:—

Commencement. 1. This Act shall come into operation in such military cantonments and from such dates as the Government shall declare by notification in the *Bombay Government Gazette*.[a]

Repeal of Regulation and Acts. 2. From and after the date at which this Act shall come into operation in any military cantonment and within the limits of such cantonment, so much of sections 3 and 7 of Regulation XXII of 1827 of the Bombay Code (*A Regulation to declare and define military authority, in its relations to the civil Power and to the community at large*) as are still in force, sections 22 to 27 both inclusive, sections 29 to 34 both inclusive, sections 48 to 55 both inclusive, of the said Regulation XXII of 1827 of the Bombay Code; Act No. XI of 1841 (*An Act for consolidating and amending the Regulations concerning Military Courts of Requests for Native officers and soldiers in the service of the East India Company*) so far as it relates to the Bombay Presidency; Act No. XII of 1842 (*An Act for the better regulation of military Bázárs and defining the liabilities of Camp-followers*) so far as it relates to the Bombay Presidency; Act No. XVIII of 1853 (*An Act for regulating the sale of spirituous liquors, &c., in cantonments*) so far as it relates to the Bombay Presidency; and Act No. IV of 1854 (*An Act relating to the execution of sentences in petty cases by Superintendents of Bázárs in the Presidency of Bombay*), shall cease to have effect to the extent in this section above stated, except as to any act done or offence committed, or as to any fine or penalty incurred, or as to any proceedings began before this Act shall be in force, in which cases the Cantonment Magistrate shall have and exercise the same powers as the Superintendent of bázárs would have had and exercised but for the passing of this Act.

Office of Su-

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[a] It has been extended to Aden, Ahmadábád, Ahmadnagar, Belgaum, Deoláli, Kirki, Karáchi, Malligaon, Puna, Sholápur.

Superintendent of bazárs abolished.

in any military cantonment, the office of Superintendent of bázárs in such cantonment shall be abolished.

Criminal jurisdiction of Cantonment Magistrate.

4. When any person shall be invested by the Government under the provisions of section 37 of the Code of Criminal Procedure, with the powers of a Magistrate within the limits of any military cantonment, such person shall be styled the Cantonment Magistrate, and within the limits of such cantonment shall, subject to the control of the Magistrate of the District in which such cantonment is situate, exercise the powers of a Magistrate as defined in the said Code for the purpose of disposing of all cases arising within such cantonment which the Magistrate of the District might dispose of, and for the commitment for trial before the Court of Session of the district or place in which such cantonment is situate, or before the High Court of Judicature at Bombay, of any person charged with any offence triable before such Courts respectively, or for which the person charged shall appear to deserve a more severe sentence than a Magistrate is competent under the said Code of Criminal Procedure to award.

Cantonment Magistrate to exercise powers of Magistrate.

5. The Cantonment Magistrate shall exercise the powers of a Magistrate within the meaning and for the purposes of the Code of Criminal Procedure, and when it shall have been so notified by the Government, he shall be considered to be a Magistrate in charge of a division of a district within the meaning and for the purposes of the said Code.

Assistant Cantonment Magistrates.

6. When any person shall be invested by the Government, under the provisions of section 23 of the Code of Criminal Procedure, with the powers of a Subordinate Magistrate of the first or second class within the limits of any military cantonment, such person shall be styled the Assistant Cantonment Magistrate, and shall be subject to the rules laid down for Subordinate Magistrates in the said Code.

Police-force in cantonment to be part of Police-force of district.

7. The Police-force employed in any military cantonment shall be deemed to be part of the Police-force of the district in which the cantonment is situated, and subject to all laws applicable to such Police-force for the time being.

Administration of Police within cantonment.

The administration of the Police within the limits of any cantonment in which there shall be a Cantonment Magistrate shall be vested in the District Superintendent of Police, subject to the general control and direction of the commanding officer of such cantonment.

Service and execution, through Cantonment Magistrate, of process of commanding officer of cantonment.

8. The commanding officer of a cantonment may send any process requiring service or execution by any means not immediately at his disposal, to the chief Police-officer in the cantonment for service or execution through the cantonment-Police, and it shall be the duty of the said chief Police-officer to serve or execute such process in the same manner as if it had been issued by the cantonment Magistrate, and subject to the same rules.

Power to Government to make rules.

9. The Government shall have power to make rules not inconsistent with the provisions of this Act or of any other law in force to provide within the limits of any military cantonment for the matters hereinafter mentioned, and from time to time to repeal or alter such rules.

Rules to be general or special.

The rules made under this section may be general for all military cantonments subject to the provisions of this Act, or special for any one or more of such cantonments, according as the Government shall direct.

Rules to be confirmed by Governor General in Council.

10. No rule made or altered under the last preceding section shall have effect until the same shall have been confirmed by the Governor General of India in Council. A copy of every such rule when so confirmed, in English and in the vernacular language chiefly in use, shall be hung up in some conspicuous part of the office of the Cantonment Magistrate, or in such other place as the Government or the commanding officer may direct.

For what matters rules may provide.

11. The rules made under section 9 of this Act may provide—

1st—for regulating, in cases in which the land within the limits of the cantonment is the property of Government, and the occupation and use of which by private persons is only permissive, the conditions under which such occupation or use shall be allowed, and under which the Government may resume possession of such land, and under which compensation shall be given to persons occupying or using the land so resumed:

2nd—for maintaining proper registers of immoveable property within the limits of the cantonment, and for providing for the registration of transfer of such property:

3rd—for regulating the manner in which houses within the limits of the cantonment shall be claimable for purchase or hire, when necessary, for the accommodation of military officers:

4th—for regulating the management and expenditure of any funds made available by law or by the Government, for the purpose of public improvements within the limits of the cantonment, or for carrying out any rules passed under this section, and the appointment of the necessary servants and establishments:

5th—for the definition and prohibition of public nuisances:

6th—for the maintenance generally of the cantonment in a proper sanitary condition; for the prevention and cure of disease; for the management and regulation of the public roads, of conservancy and drainage; for the regulation and inspection of public and private necessaries, urinals, cess-pools, drains and all places in which filth or rubbish is deposited; of slaughter-houses, public markets, burial and burning grounds, and all offensive or dangerous trades and occupations:

7th—for inspecting and controlling houses of ill-fame, and for preventing the spread of venereal disease.

8th—for the supervision and regulation of public wells, tanks, springs or other sources from which water is or may be made available for public use:

9th—for the execution and promotion of works of public utility and convenience:

10th—for the registration of deaths, and for making and recording observations and facts important for the public health and interests:

11th—for the imposition of penalties on persons convicted of the breach of any rule made under section 9 of this Act, and for declaring what persons shall make the preliminary inquiry into, or take cognizance of, any breach of such rules, and the manner in which the investigation shall be conducted:

Provided that no penalty so imposed shall exceed a fine of fifty rupees, or imprisonment for eight days with or without labour.

Trial of breaches of rules.

12. Breaches of any rule made under section 9 of this Act shall be triable by the Cantonment Magistrate when there is such an officer; but the Government may invest any Assistant Cantonment Magistrate or any other person with power to try such breaches, and may authorize such person to exercise such power independently of the Cantonment Magistrate.

The Magistrate of the District shall have no control over the Cantonment Magistrate or over any Assistant Cantonment Magistrate, or any other person invested with such power in respect to the exercise of such power.

Fine imposed how levied.

13. In every case in which an offender is sentenced to a fine for the breach of any rule made under section 9 of this Act, the amount may in case of non-payment be levied by distress and sale of any moveable property of the offender which may be found within the limits of the cantonment.

Imprisonment in case of amount not being levied.

14. If no such property sufficient for the payment of the fine can be found, the offender shall be liable to be imprisoned without labour for any term not exceeding one calendar month.

Place of imprisonment.

15. Imprisonment under this Act may be in any gaol regulated by any Act in force for the time being for regulation of gaols in the Presidency of Bombay.

Prosecutions under other Regulations not barred.

16. Nothing in this Act, nor in any rule made under section 9 thereof, shall prevent any person from being prosecuted under any other Regulation or Act for any offence punishable under this Act, or from being liable under any other Regulation or Act to any other or higher penalty or punishment than is provided for such offence by this Act:

Provided that no person shall be punished twice for the same offence.

For protection of health of troops, rules made under

17. Whenever it shall appear necessary for the protection of the health of the troops in any military cantonment subject to the provisions of this Act, it shall be lawful for the Government to extend to any place outside the limits of

such military cantonment, and in the vicinity of such cantonment, all or any of the rules made for such cantonment under clause 7 of section 11 of this Act, and to make any additional rules under the said clause, and to define the limits around such cantonment within which such rules or additional rules shall be in force.

7th clause of section 11 may be extended beyond limits of cantonments.

18. When such rules or any additional rules made as above, shall be extended under the last preceding section beyond the limits of such cantonment, it shall be lawful for the Government to provide, in the manner described in clause 11 of section 11 of this Act, for the imposition of penalties for the breach of such rules, and for prescribing the manner in which, and the persons by whom, breaches of such rules shall be inquired into or be cognizable.

How penalties may be imposed and enforced for breach of rules in extended limits.

19. All Courts and Magistrates shall take judicial notice of all rules made under section 9 or section 17 of this Act.

Courts to take judicial notice of rules.

20. Whenever, in any military cantonment, rules have been made under section 9 of this Act, so much of any Regulation or Act as may be held to empower the commanding officer to make local regulations regarding matters other than military, shall cease to have any effect in such cantonment, and all local regulations for any military cantonment which may have been made before the promulgation of the rules for such cantonment, made under the said section 9, shall cease to have any effect:

Effect of rules made under section 9, in respect of Regulation previously in force

Provided that nothing in this section shall be held to interfere with any military authority vested in the said commanding officer under the Articles of War.

Proviso.

21. If within any military cantonment, or within any limits around such cantonment prescribed by the Government, any person not amenable to the Articles of War, or any sutler or camp-follower, shall knowingly barter, sell or supply, or offer or attempt to barter, sell or supply, any spirituous liquor, wine or intoxicating drug to or for the use of any European soldier, or to or for the use of any European or Eurasian being a camp-follower or a soldier's wife, without a written license from the officer commanding, or from some person having sufficient authority from the officer commanding to grant such license, the person so bartering, selling or supplying, or offering or attempting to barter, sell or supply, such spirituous liquor, wine or intoxicating drug as aforesaid, shall be liable on conviction to a fine not exceeding one hundred rupees, or, in the discretion of the Magistrate, to imprisonment with or without hard labour, for any period not exceeding three months, or in lieu of such fine or imprisonment to the punishment of whipping, as prescribed for offences under section 2 of Act VI of 1864 (*to authorize the punishment of whipping in certain cases*), subject to all the provisions of that Act.

Penalty for unauthorized sale of spirituous liquor, &c., to certain persons in cantonments.

22. If any person convicted of an offence under the last preceding section

Spirituous

liquor, &c., to be confiscated in certain cases

shall be again convicted of an offence under that section, any spirituous liquor, wine or intoxicating drug within such cantonment or limits, which at the time of the commission of such subsequent offence shall belong to or be in the possession of such person, shall, without further proof, be deemed to be in the possession of such person for the purpose of being supplied to European soldiers contrary to the provisions of this Act, and shall be liable to be seized and confiscated.

Penalty for having in possession within cantonments more than certain quantity of spirit, without permit.

23. If any camp-follower or military pensioner, or the wife or the widow of any soldier, camp-follower or military pensioner, shall, within such cantonment or limits, remove, convey or have in his or her possession, any quantity of spirituous liquor or wine exceeding one quart, without a permit signed by the officer in command or other officer appointed by him to grant permits under this Act, every such person shall be liable upon conviction to a fine not exceeding fifty rupees, and for any subsequent offence to a fine not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three calendar months: Provided that nothing in this section contained shall apply to any spirituous liquor or wine brought into a cantonment for the private use of any commissioned officer.

Arrest of persons offending under section 21 or 23, and seizure of spirit, &c., in possession.

24. If any person subject to the provisions of this Act shall be found committing any offence punishable under section 21 or section 23 of this Act, any Police-officer may immediately, without warrant, arrest such person, and also seize any spirituous liquor, wine or intoxicating drug, together with any vessel containing the same, and anything used for the purpose of removing, conveying or concealing the same, which may be found in his possession, and shall thereupon without delay take such person, together with the things so seized, before the Cantonment Magistrate or other officer having jurisdiction to punish the offender.

Confiscation of intoxicating liquor, &c., in respect of which conviction had, or found in possession of party convicted.

25. In case of a conviction for any offence under section 21 or section 23 of this Act, the Cantonment Magistrate or other officer may adjudge any liquor, wine or intoxicating drug in respect of which the person shall have been convicted, and any other spirituous liquor, wine or intoxicating drug which shall have been found in his possession at the time of committing the offence, and any vessel containing the same, together with anything used for the purpose of conveying, removing or concealing the same, or any part thereof, to be confiscated;

and such Magistrate may order the whole or any part of any fine imposed under this Act to be paid, when realized, to the person upon whose information such conviction shall have taken place, or to the officer who shall have apprehended the offender, or seized any of the goods adjudged to be confiscated.

26. Anything seized under section 24, in respect of which any person shall be charged with an offence, may be detained until the person in whose possession the same shall have been seized shall be convicted or acquitted of the offence charged. Property seized may be detained until conviction or acquittal.

If the person shall be acquitted, anything so seized shall be restored; if he shall be convicted, such of the things only as shall not be adjudged to be confiscated shall be restored. How disposed of.

27. The foregoing sections shall not apply to the sale or supply of any article for medicinal purposes by recognized medical practitioners, chemists or druggists. Saving of articles sold for medicinal purposes.

28.—[*Repealed by Act No. XII of 1876.*]

29. From the date on which any Cantonment Magistrate shall begin to exercise jurisdiction under this Act in any cantonment, so much of the Regulations and Acts for the time being in force in the Presidency of Bombay as is in any way inconsistent with or repugnant to any of the provisions of this Act, shall cease to have effect in such cantonment. Inconsistent Regulations and Acts when to cease to have effect in cantonment.

30. This Act is not applicable to the city of Bombay. Application.

31. Nothing in this Act shall be held to affect the jurisdiction of any Court of Requests convened under the ninety-ninth section of the Statute 29 Victoria, cap. 9, or the corresponding section in any other Statute for the time being in force for punishing mutiny and desertion, and for the better payment of the Army and their quarters, or the powers of a commanding officer under any such Statute to convene such Courts. Saving of jurisdiction of Courts of Requests under 29 Vic., c. 9, sec. 99, or corresponding section of Mutiny Act.

32. This Act may be cited as "The Bombay Cantonment Act of 1867." Short title.

ACT No. VI OF 1867.

Received the Governor's assent on the 4th of November, 1867, and the Governor General's assent on the 26th of November, 1867, and published by the Governor on the 28th of December, 1867.

An Act for the better sanitary regulation of the city of Bombay.

WHEREAS it is expedient to take measures to check the spread of infectious diseases dangerous to life in the city of Bombay, and especially with reference to vessels arriving at, or being within the limits of, the port of Bombay; It is enacted as follows:— Preamble.

1. It shall be lawful for Government, with a view of providing for the segregation of persons suffering from any infectious disease dangerous to life, from time to time to establish, by notification, for the purposes hereinafter Establishment of sanitaria.

specified, one or more places to serve as sanitaria for the city of Bombay, and to notify the local limits of such sanitaria

Appointment of establishment.

And it shall be lawful for Government, acting under the general control of the Government of India, to appoint a superintendent of each sanitarium, with such establishment as may be necessary.

Appointment of Health-officer of port.

2. It shall be lawful for Government to appoint a Health-officer of the port for the purposes of this Act, and the Health-officer of the port shall be an assistant to, and subject to the general control of, the consulting-officer of health.

Removal of persons suffering from infectious disease to sanitarium.

3. When it shall appear to the consulting officer of health, or in his absence to the Health-officer of the port, that any person in the city of Bombay, being in the public streets or thoroughfares, or in a place of public resort, such as dharmsálas, temple-enclosures and the like, and without proper lodging or accommodation, or being on board any vessel and without proper lodging or accommodation on shore, is suffering from an infectious disease dangerous to life, and that it is necessary for the safety of the public that he should be removed to a sanitarium, either of the said officers of health may require such person to proceed to a sanitarium, and the person so required shall be bound to proceed, or allow himself to be conveyed, to that sanitarium, and shall be bound to remain there till one of the said officers of health certifies that he may go at large without danger to the public.

Penalty.

Any such person refusing or voluntarily neglecting to obey such requisition, shall be liable to the penalties provided in section 269 of the Indian Penal Code.

Removal by written order of person refusing to proceed to sanitarium.

4. If any such person shall refuse or voluntarily neglect to proceed to the sanitarium when duly required in the manner described in the last preceding section, the consulting officer of health, or in his absence the Health-officer of the port, may, by a written order in the form given in the appended schedule, direct that such person be conveyed to a sanitarium, and such written order, signed by one of the said officers of health, shall be sufficient warrant for the conveyance of such person to the sanitarium.

Magistrate, on certificate of medical officer, to make requisition as in section 3.

5. It shall be lawful for any Magistrate of Police, on the certificate of a covenanted medical officer of Government, or of any member or licentiate of any college of physicians or surgeons of the United Kingdom or of India, as to the nature of the disease, and on such evidence as may be thought by him sufficient in regard to the other conditions recited in section 3 of this Act, to make requisition as in the said section, and any person refusing or voluntarily neglecting to obey such requisition, shall be liable to the penalties provided in section 269 of the Indian Penal Code.

Penalty.

Master of

6. When the master or commander of any vessel, being within the limits of

the port of Bombay, shall become aware that any person on board his vessel is suffering from any infectious disease dangerous to life, he shall immediately give notice to the Health-officer of the port, and, pending the orders of the Health-officer of the port, he shall either remove such person to a sanitarium, or take other suitable precautions to prevent the spread of the disease.

Vessel to give notice of person suffering on board from infectious disease.

If the master or commander shall wilfully neglect to act as directed in this section, he shall be liable to the penalties provided in section 269 of the Indian Penal Code.

Penalty.

7. It shall be lawful for the consulting officer of health or for the Health-officer of the port, at any time to enter into and inspect any vessel being within the limits of the port of Bombay, and to question the master or commander regarding the sanitary condition of the vessel and of the persons on board, and the master or commander shall be bound truthfully to answer such questions.

Power to Health officers to enter vessel and question master or commander.

And if the master or commander shall wilfully give false information to either of the said officers, he shall be liable to the penalties provided in section 177 of the Indian Penal Code; and if he shall refuse to answer questions put to him, he shall be liable to the penalties provided in section 179 of the Indian Penal Code.

Penalty.

8. If it shall appear to the consulting officer of health or the Health-officer of the port, that any person on board a vessel within the limits of the port of Bombay is suffering from any infectious disease dangerous to life, he may require the master or commander of the vessel to remove such person or any other person who shows premonitory symptoms of such disease, to a sanitarium or other place on shore where, in the opinion of the Health-officer, proper lodging and accommodation are available; and the master or commander shall be bound to obey such requisition, and is hereby authorized and empowered to enforce such removal.

Master or commander may be required to remove person suffering from infectious disease.

And if the master or commander shall refuse or wilfully neglect to obey such requisition, he shall be liable to the penalties provided in section 269 of the Indian Penal Code.

Penalty.

9. When it shall appear to the Health-officer of the port that, owing to a person suffering from an infectious disease dangerous to life being on board or having recently been on board any vessel within the limits of the port of Bombay, it is expedient that measures should be taken for the disinfection of such vessel, the said Health-officer may, by an order in writing to the master or commander of such vessel, direct all or any part of the vessel to be forthwith fumigated or otherwise cleansed for sanitary purposes, in accordance with rules published on that behalf by Government under section 11 of this Act;

Disinfection of vessels,

and if the master or commander neglect to do so within the period fixed in and recovery

of expenses and penalties.

the said order, provided such period be not less than twenty-four hours from the time when such order shall have been served upon him, the said Health-officer may cause the same to be done, and the expenses incurred shall be paid by the owner or the master on demand, and if not so paid, shall be recovered in the manner provided in section 55 of Act XII of 1875 (*to consolidate and amend the law relating to Ports and Port-dues*)[a] for the recovery of penalties imposed under that Act.

Detention by superintendent of person brought into sanitarium until discharged

10. It shall be lawful for the superintendent of the sanitarium, and it shall be his duty, to detain in the sanitarium under his charge all persons who shall come or be brought to such sanitarium under sections 3, 4, 6 or 8, until they shall be discharged under a certificate to be granted under rules made by Government under section 11 of this Act.

Power to Government to make and publish rules.

11. It shall be lawful for Government from time to time to make and publish general rules for the proper management and discipline of sanitaria established under this Act, and for the disinfection or destruction of the personal property of persons suffering or who have recently suffered from any infectious disease dangerous to life, and for the disinfection and cleansing of vessels on board of which such persons are or recently have been; and from time to time to alter or repeal such rules.

Penalty.

Any person who shall disobey such rules or any of them shall be liable to the penalties provided in section 271 of the Indian Penal Code.

Power to determine what diseases are infectious.

12. It shall be lawful for Government from time to time to determine by notification what diseases shall, for the purposes of this Act, be held to be infectious diseases dangerous to life.

Power to authorize person to exercise powers of Health-officer.

13. It shall be lawful for Government, when necessary, to authorize any one or more persons to exercise all or any of the powers conferred by this Act on the consulting officer of health or on the Health-officer of the port, provided that every such person shall be a covenanted medical officer of Government, or a member or licentiate of any college of physicians or surgeons of the United Kingdom or of India, and shall exercise these powers subject to the general control of the consulting officer of health.

Power to make special orders in special cases

14. Whenever it shall appear to Government that, owing to the expected introduction of any infectious disease dangerous to life, or owing to other exceptional circumstances, the ordinary precautions authorized by this Act are insufficient to prevent the spread of such disease, it shall be lawful for Government, by notification, to make such orders, and from time to time to vary the same, as it shall deem expedient, for the enforcement of sanitary measures with respect to any vessel arriving at, or being within the limits of, the port

[a] See Act No XII of 1875, sec. 3

of Bombay, or in regard to any persons on board any such vessel, or their personal property

And any person disobeying such orders or any of them shall be liable to the penalties provided in section 271 of the Indian Penal Code Penalty

15 The word "vessel" denotes anything made for the conveyance by water of human beings or of property Interpretation clause

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SCHEDULE A

To

WHEREAS *A B*, being a person without proper lodging or accommodation in the city of Bombay, is suffering from an infectious disease dangerous to life, and it is necessary for the safety of the public that he should be removed to a sanitarium, and whereas, having been required to proceed to such sanitarium, he has neglected to do so, you are hereby authorized, with such assistance as you may require, to convey him, under section 4 of Act VI of 1867, to , and this shall be your warrant for so conveying him

Consulting officer of health, or Health-officer of the port.

SCHEDULE B

To

The Master or Commander of Vessel _____

(*Name*)

WHEREAS *A B*, at present on board the vessel _____ within the limits of the port of Bombay, is suffering from an infectious disease dangerous to life (*or* shows premonitory symptoms of a disease dangerous to life, *as the case may be*), these are to require you to remove the said *A B.* to [*here designate the sanitarium or other place on shore where, in the opinion of the consulting officer of health or health-officer of the port, proper lodging and accommodation are available*], and for enforcing the said removal, this shall be your sufficient warrant

Consulting officer of health, or Health-officer of the port.

ACT No. VII OF 1867.

Received the Governor's assent on the 15th of November, 1867, and the Governor General's assent on the 12th of December, 1867, and published by the Governor on the 28th of December, 1867.

An Act for the regulation of the District Police in the Presidency of Bombay.

Preamble. WHEREAS it is expedient to establish regulations for the administration of the Police of the Presidency of Bombay; It is enacted as follows :—

Interpretation-clause 1. The following words and expressions in this Act shall have the meaning assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say—

"Magistrate of the District" the words "Magistrate of the District" shall mean the chief officer charged with the executive administration of a district and exercising the powers of a Magistrate by whatever designation the chief officer charged with such executive administration is styled :

"Magistrate." the word "Magistrate" shall include any person exercising all or any of the powers of a Magistrate :

"District." the word "district" shall mean the limits of the local jurisdiction of the Magistrate of the District :

"Police" or "Police-officer." the term "Police" or "Police-officer" shall include all persons appointed or enrolled under this Act :

"Constable." the term "constable" shall mean a Police-officer of the lowest grade in the Police :

"Property." the word "property" shall include any moveable property, money or valuable security :

Cattle." the word "cattle" shall, besides horned cattle, include elephants, camels, horses, asses, mules, sheep, goats and swine.

2.—[*Repealed by Act No. XII of 1873.*]

Constitution of force. 3. The Police-establishment of the several districts of the Bombay Presidency shall consist of such number of officers and men, and shall be constituted in such manner, and shall receive such pay, as shall from time to time be ordered by Government, subject to the sanction of the Governor General of India in Council.

Superintendence in Government. 4. The superintendence of the Police throughout the Bombay Presidency shall vest in, and, subject to the general control of the Governor General of India in Council, shall be exercised by, Government, and except as authorized under this Act no person, officer or Court shall be empowered by Government to appoint, supersede or control any Police-officer.

Administration of Police vested in one or more Commissioners, with assistants.

5. The administration of the Police throughout the whole or any portions of Bombay Presidency shall be vested in one or more Commissioners, with such assistants, as may seem fit to Government, and each Commissioner shall have under his control such districts as Government may direct.

Administration of Police in districts vested in District Superintendent.

The administration of the Police in one or more districts shall, under the control and direction of the Magistrate of the district subordinate to the Commissioner aforesaid, be vested in a District Superintendent and such Assistant District Superintendents as Government shall consider necessary.

Appointment and removal of officers.

The Commissioner and other officers above-mentioned shall from time to time be appointed by Government, and may be removed by the same authority.

Powers of Commissioners and their exercise.

6. Each Commissioner shall have the full powers of a Magistrate throughout the districts under his control, but shall exercise those powers subject to such limitation as may from time to time be imposed by Government.

Powers conferrible on Assistant Commissioners, &c.

7. Government may vest any Assistant Commissioner, District Superintendent or Assistant District Superintendent of Police with all or any of the powers of a Magistrate within such limits as it may deem proper;

In what cases those powers shall be exercised.

but such officers respectively shall exercise the powers with which they shall be so invested only so far as may be necessary for the preservation of the peace, the prevention of crime, and the detection, apprehension and detention of offenders in order to their being brought before a Magistrate, and so far as may be necessary for the performance of the duties assigned to them by this Act.

Commissioners, &c., to appoint and dismiss.

8. The appointment or enrolment of all Police-officers other than those mentioned in section 5 of this Act shall be for one or more districts, and shall, under such rules as Government shall from time to time sanction, rest with the Commissioners and District Superintendents of Police, who may under such rules as aforesaid at any time dismiss, suspend or reduce any Police-officer whom they shall think remiss or negligent in the discharge of his duty or unfit for the same, or fine to any amount not exceeding one month's pay any Police-officer who shall discharge his duty in a careless or negligent manner, or who by any act of his own shall render himself unfit for the discharge thereof.

Police-officers to receive certificates of office.

9. Every Police-officer so appointed or enrolled shall receive on appointment or enrolment, a certificate, in the form annexed to this Act, under the seal of the Commissioner or such other officer as the Commissioner shall appoint, by virtue of which the person holding such certificate shall be vested with the powers, functions and privileges of a Police-officer.

Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed, or otherwise removed from employment in the

Police, and shall be immediately surrendered to the superior officer of such person, or to some other officer empowered to receive the same.

Police-officers not to resign without leave or two months' notice.

10. No Police-officer shall be at liberty to withdraw himself from the duties of his office, unless with the express sanction of the District Superintendent or of some other officer authorized to grant such permission, or under the certificate of a medical practitioner, nor shall he without the leave of the District Superintendent resign his office, unless he shall have given to his superior officer notice in writing, for a period of not less than two months, of his intention to resign.

Police-officers not to engage in other employment.

11. No Police-officer shall engage in any employment or office whatever other than his duties under this Act, unless expressly permitted to do so in writing by the Commissioner.

12.—[*Repealed by Act No. XVI of 1874.*]

Power to Commissioner to make rules

13. Any Commissioner may from time to time, subject to the approval of Government, frame such orders and rules as he shall deem expedient relative to the organization and classification of the Police in the districts under his control; the particular services to be performed by them; their inspection; the description of arms, accoutrements and other necessaries to be furnished to them; the collecting and communicating by them of intelligence and information, and all such other orders and rules as the Commissioner shall, from time to time, deem expedient for preventing abuse or neglect of duty, and for rendering the Police under his control efficient in the discharge of their duties; and he shall further determine, in consultation with the Magistrate of the District, the distribution of the Police in the several districts.

Power to employ additional Police-officers at cost of individuals.

14. It shall be lawful for any Commissioner, or, subject to the general direction of the Magistrate of the district, for a District Superintendent, on the application of any person showing the necessity thereof, to depute any additional number of Police to keep the peace, or to perform other Police-duties, at any place and for such time as shall be deemed proper.

Such additional Police shall be under the orders of the District Superintendent, and shall be at the charge of the person making the application:

Provided that it shall be lawful for the person on whose application such deputation shall have been made, on giving one month's notice in writing to the Commissioner or to the District Superintendent, or such shorter notice as may be accepted by either of the said officers, to require that the Police so deputed shall be withdrawn, and such person shall be relieved from the charge of such additional force from the expiration of such notice.

Appointment of additional force in neighbourhood of

15. Whenever any railway, canal or other public work, or any manufactory or commercial concern shall be carried on, or be in operation, in any part of the country, and it shall appear to any Commissioner that the employment of

additional Police in such place as rendered necessary by the behaviour, or reasonable apprehension of the behaviour, of the persons employed upon such work, manufactory or concern, it shall be lawful for the Commissioner, with the consent of Government, to depute such additional force to such place, and to employ the same so long as such necessity shall continue, and to make orders from time to time upon the person having the control or custody of the funds used in carrying on such work, manufactory or concern, for the payment of the extra force so rendered necessary, and such person shall thereupon cause payment to be made accordingly. Railway and other works.

16. It shall be lawful for Government, by notification and in such other manner as may to it seem fit, to direct the employment of any Police-force in excess of the ordinary fixed complement quartered in any part of the Presidency which shall be found to be in a disturbed or dangerous state, or any part thereof in which, from the conduct of the inhabitants, Government may deem it expedient to increase the number of Police. Quartering of additional Police in disturbed or dangerous districts.

The cost of such additional Police may wholly or in part, at the discretion of Government, be defrayed by a local rate charged on the part of the country described in the notification, and the Collector, on the requisition of the Magistrate of the district, shall levy the amount by such an assessment on the inhabitants thereof as the Collector shall in his discretion think just:

Provided, however, that when the part of the Presidency so notified is within the limits of any town in which there is a municipal commission under Act XXVI of 1850, or other Act in force, the said charge shall be defrayed from the municipal fund, and any additional tax necessary for the purpose shall be assessed by the municipal commission.

17. All moneys payable under the last three preceding sections, on account of any additional Police employed as therein directed, shall be recoverable by order of the Collector after a written notice of seven days in the same manner and by the same process as a revenue-demand under the laws in force for the collection of revenue, and the moneys paid on this account or so recovered shall be credited to a fund to be called "The General Police Fund," and shall be applied to the maintenance of the Police under such orders as Government shall pass: Payment of money for support of additional Police-force.

Provided that all moneys assessed under the proviso of the section last preceding shall be levied by order of the municipal commission for payment to Government, and shall be recovered by them in the same manner and by the same process as assessments levied for municipal purposes.

18. It shall be lawful for a Magistrate, or District Superintendent or Assistant District Superintendent of Police, or for any Police-officer to demand the aid of any person in the prevention of a breach of the peace, or in the Power to Magistrate or District Superintend-

ent, &c., to call upon persons to aid Police.

suppression of a riot or an affray, or in the taking of any other person whom such Magistrate, or District Superintendent or Assistant District Superintendent of Police, or Police-officer is authorized to arrest.

Power to Magistrate to apply for military aid.

19. If on any emergency the available force of Police be found insufficient to quell riot or other serious disturbance of the public peace, it shall be lawful for the Magistrate of highest authority on the spot to apply to the commanding officer of the nearest military post or station for military aid to quell the disturbance by force of arms.

Police always on duty, and may be employed in other part of Presidency.

20. Every Police-officer shall for all purposes in this Act contained be considered to be always on duty in the district or districts to which he belongs, and may at any time be employed for so long as his services are required on duty in any other part of the Presidency.

Duties of Police-officers

21. It shall be the duty of every Police-officer promptly to obey and execute all orders and warrants lawfully issued to him by competent authority;

to collect and communicate intelligence affecting the public peace;

to prevent the commission of offences and public nuisances;

to detect and bring offenders to justice, and

to apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension sufficient ground exists;

and it shall be lawful for every Police-officer, for any of the purposes mentioned in this section, without a warrant, to enter and inspect any drinking-shop, gaming-house or other place of resort of loose and disorderly characters.

Power to seize instruments, &c., believed to be kept for unlawful purposes.

22. It shall be lawful for any Police-officer above the rank of a constable to seize all such instruments or other articles as he shall have good reason to believe are kept for unlawful purposes; but if to effect the seizure it be necessary to enter a dwelling-house, no entry shall be made without warrant.

Instruments, &c., how disposed of.

Such instruments and articles shall be disposed of as the Magistrate of the District may direct.

Police may lay informations, &c.

23. It shall be lawful for any Police-officer to lay any information before a Magistrate, and to apply for a summons, warrant, search-warrant or such other legal process as may by law issue against any person committing an offence, and to prosecute such person up to final judgment.

Police to take charge of unclaimed property, and deliver it to patel of village.

24. It shall be the duty of every Police-officer to take charge of all unclaimed property, and to deliver it to the Police-patel of the village in which the said unclaimed property is found, and to take a receipt, which he shall forward to the nearest Magistrate having local jurisdiction.

Penalty on persons refusing to deliver up

25. Every person having ceased to be a Police-officer under this Act who shall wilfully neglect or refuse to deliver up his certificate, and the clothing, accoutrements, appointments and other necessaries which shall have been

supplied to him for the execution of his duty, shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred rupees, or, in default of payment, to imprisonment of either kind for a period not exceeding six months. certificate, &c., on ceasing to be Police-officers

26. Every Police-officer Penalties for neglect of duty, &c.

who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation, or lawful order made by competent authority, or

who shall withdraw from the duties of his office without permission, or without having given previous notice for the period of two months, or

who shall engage without authority in any employment other than his Police-duty, or

who shall be guilty of cowardice, or who shall offer any unwarrantable personal violence to any person in his custody,

shall be liable, on conviction before a Magistrate, to a penalty not exceeding three months' pay, or to imprisonment of either kind for a period not exceeding three months, or to both.

27. The District Superintendent and Assistant District Superintendent of Police may, as occasion requires, direct the conduct of all assemblies and processions on the public roads, or in the public streets or thoroughfares, and prescribe the routes by which, and the times at which, such processions may pass. Orders for regulation of public processions, &c.

They may also regulate the use of music in the streets of towns on occasion of festivals and ceremonies.

28. It shall be the duty of the Police Police to keep order on public roads, &c.

to keep order on the public roads, and in the public streets, thoroughfares, bathing, washing and landing-places, and at all other places of public resort, or in the neighbourhood of places of worship, during the time of public worship,

to prevent obstructions on public roads and in public streets, thoroughfares, bathing, washing and landing-places, and

to prevent overcrowding in public ferry-boats.

29. Every person opposing or not obeying the orders issued under the last two preceding sections shall be liable to a fine not exceeding two hundred rupees, or, in default of payment, to imprisonment of either kind for a period not exceeding six months, on conviction thereof before a Magistrate, if such order shall have been issued under section 27 of this Act, and to a fine not exceeding fifty rupees, or, in default of payment, to imprisonment of either kind for a period not exceeding two months, on conviction before a Magistrate, if such order shall have been issued under section 28 of this Act. Penalty for disobeying orders under last two sections.

30. Nothing in the last three preceding sections shall be deemed to Control of

Magistrate of district.

interfere with the general control of the Magistrate of the district over the matters referred to therein.

Penalty on persons in town or other place causing obstruction, damage, &c., to residents or passengers.

31. In any town or other place in which there is a Magistrate resident, or in any town or other place, or on, or close to, any public road, to which town, place or road the operation of this section shall be specially extended by Government by notification, any person who shall offend as follows, so as to cause obstruction, annoyance, risk, danger or damage to residents or passengers, shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees, or, in default of payment, to imprisonment not exceeding eight days;

Arrest without warrant of person—

and it shall be lawful for any Police-officer to take into custody without a warrant any person so offending within his view, that is to say—

ill-using animal;

(1) any person who wantonly and cruelly beats, ill-uses or tortures any animal:

bathing in or defiling tank, or reservoir, &c;

(2) any person who bathes or washes in, or otherwise defiles or causes to be defiled, any public well, tank, reservoir or watering-place, so as to render it less fit for any purpose for which it is set apart; provided that a prohibitive notice in the language of the district shall have been fixed in a conspicuous place contiguous:

recklessly riding, &c, or leaving cattle insufficiently secured;

(3) any person who on any road or public thoroughfare recklessly or furiously rides, drives, trains or breaks, or leaves insufficiently tended or secured, any horse or other cattle, or keeps any cattle or conveyance of any kind standing longer than is necessary after receipt of warning to remove, or

driving without light;

who on a dark night drives any vehicle without a sufficient light, or

depositing goods for sale;

who unauthorizedly deposits for sale or otherwise any goods, or

depositing rubbish,

who deposits, except in appointed places, any dirt, filth or rubbish, or

without the permission of a Magistrate, municipal commission or Police-officer, makes a bonfire, or wantonly lets-off any firearm or firework within fifty feet of the public road;

slaughtering cattle on public street;

(4) any person who on, or close to, and within sight of, any public road, street or thoroughfare slaughters any cattle or cleans any carcase or hide;

indecently exposing person, &c.,

or wilfully and indecently exposes his person, or, for the purpose of obtaining money, exposes any offensive deformity or disease;

committing nuisance;

or commits nuisance;

being riotous or disorderly.

or who is from intoxication, riotous, disorderly or incapable of taking care of himself.

Police-officer to take recognizance of persons charged

32. It shall be the duty of every Police-officer above the rank of constable, upon any person charged under the section last preceding being brought before him, to take personal recognizance of the person so charged, with or without other security, for the appearance of the said person before a Magistrate.

Common nuisance.

33. Any person

who on any public thoroughfare, without the permission of a Magistrate or municipal commission, constructs any booth, shed, stable or the like, or lays down any stones or building material; or

who within the limits or site of any town or village, without sufficient cause, wilfully allows to accumulate any offensive matter in cesspools, dung-heaps or the like, so as to cause annoyance to the neighbouring residents or to passengers; or

who without sufficient cause wilfully allows any offensive matter to issue on to any public thoroughfare from any house, factory, stable, privy or the like; or

who deposits the bodies of dead animals, or refuse or filth of any description either in channels which in the rainy season feed any tank or reservoir set apart for drinking, or in other places where to deposit such is offensive to the community; or

who in disregard of established rules or the order of a Magistrate, stacks or stores grass or other inflammable material within fifty yards of a dwelling-house, out-house or other building; or fails to remove the same when so stacked or stored; or

who disobeys the order of a Magistrate given in respect to land in or near towns, villages or dwelling-places, or in or near public roads and thoroughfares, for the pruning of hedges, or for the pruning or removal of overgrown prickly-pear or other vegetation, the unchecked growth of which is likely to be injurious to health,

shall be punishable for every such offence, on conviction before a Magistrate, to the extent of fifty rupees fine, or, in default of payment, to imprisonment not exceeding eight days;

provided that no person shall be required to prune a hedge below three feet in height and three feet in width.

Removal of prickly-pear or other nuisance from waste-land of town or village.

34. Whenever the removal of prickly-pear or other vegetation or of any nuisance, from the common or waste-land of any town or village shall, in the opinion of a full-power Magistrate be necessary, it shall be lawful for the said Magistrate to order such removal by a general notice addressed to all persons having an interest in the said common land, and to the inhabitants of the town or village at large, which notice shall be affixed to the chaunri or other principal place of public resort: and if within a reasonable time, being not less than seven days, to be specified in the said notice, the order be not carried out, the Magistrate may cause the vegetation or nuisance to be removed, and on the requisition of the said Magistrate the cost of the removal shall be assessed and levied from the inhabitants in the manner provided in sections 16 and 17 of this Act.

Jurisdiction.

35. In all cases of convictions under this Act the officer trying the case

shall be limited to his ordinary jurisdiction as to the amount of fine or imprisonment which he may inflict,

Proviso

provided that any charge against a Police-officer above the rank of a constable preferred under this Act shall be inquired into and determined only by any officer exercising the full powers of a Magistrate

Power to prosecute not affected

36 Nothing contained in this Act shall be construed to prevent any person from being prosecuted under any other Regulation or Act for any offence made punishable by this Act, or from being liable under any other Regulation or Act to any other or higher penalty or punishment than is provided for such offence by this Act

Proviso

Provided that no person shall be punished twice for the same offence

Levy of forfeiture and penalties by distress

37 All forfeitures or penalties imposed under the authority of this Act for offences punishable by a Magistrate may, if the said Magistrate see fit, in case of non-payment thereof be levied by distress and sale of the property of the offender within the limits of the jurisdiction of the Magistrate of the district, by warrant under the hand of the Magistrate who made the order

Procedure until return is made to warrant of distress

38 In case any such forfeiture or penalty shall not be forthwith paid, the Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of the Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress

Imprisonment if distress not sufficient

39 If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of the Magistrate, by the confession of the offender or otherwise, that he has not sufficient property whereupon such fine or sum of money could be levied if a warrant of distress were issued, the Magistrate may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned according to the discretion of the Magistrate, for any term not exceeding two calendar months when the amount of fine shall not exceed fifty rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

40 —[*Repealed by Act No X of 1872*]

Rewards to Police and informers payable to general Police fund

41 All sums paid for the service of process by Police-officers, and all rewards, forfeitures and penalties, or shares of rewards, forfeitures and penalties, which by law are payable to informers, shall, when the information is laid by a Police-officer, be paid into the general Police-fund

Provided that nothing in this section shall prevent the grant of a portion or the whole of such reward, forfeiture or penalty to individuals of the Police-force for particular service. Proviso

42. All actions and prosecutions against any person, which may be lawfully brought for anything done or intended to be done under the provisions of this Act, or under the general Police-powers hereby given, shall be commenced within three months after the act complained of shall have been committed and not otherwise; and notice in writing of such action and of the cause thereof shall be given to the defendant, or to the District Superintendent or an Assistant District Superintendent of the district in which the act was committed, one month at least before commencement of the action. Limitation of action.

No plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant, and though a decree shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge before whom the trial is held shall certify his approbation of the action : Effect of tender of amends.

Provided always, that no action shall in any case lie where such officers shall have been prosecuted criminally for the same act. Proviso.

43. When any action or prosecution shall be brought or any proceedings held against any Police-officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of a warrant issued by a Magistrate. Plea that act was done under warrant.

Such plea shall be proved by the production of the warrant directing the act, and purporting to be signed by such Magistrate, and t e defendant shall thereupon be entitled to a decree in his favour, notwithstanding any defect of jurisdiction in such Magistrate.

No proof of the signature of such Magistrate shall be necessary, unless the Court shall see reason to doubt its being genuine:

Provided always, that any remedy which the party may have against the authority issuing such warrant shall not be affected by anything contained in this section. Proviso.

44. It shall be lawful for the Magistrate of a district, with the sanction of the Commissioner of Police, to depute to the District Superintendent of Police any authority which may be exercised by the Magistrate of a district for the purposes of Police, over any village Police-officer. Power to depute to District Police Superintendent authority of Magistrate.

45. Nothing in this Act shall affect any hereditary or other village Police-officer unless such officer shall be enrolled as a Police-officer under this Act. Village Police-officers.

When so enrolled, such officer shall be bound by the provisions of this Act.

No hereditary village Police-officer shall be enrolled under this Act without his consent and the consent of those who have the right of nomination.

Extent. **46.** This Act applies to the Province of Sindh, but does not apply to the city of Bombay.

Short title. **47.** This Act may be cited as the "Bombay District Police Act, 1867."

FORM (*See section 9.*)

L.S.

A. B. has been appointed to the Police of the district or districts of *C. D.*, in the Bombay Presidency, and is vested with the powers and privileges of a Police-officer under the "Bombay District Police Act, 1867."

ACT No. VIII OF 1867.

Received the Governor's assent on the 15th of November, 1867, and the Governor General's assent on the 12th of December, 1867, and published by the Governor on the 21st of December, 1867.

An Act for the regulation of the Village-police in the Presidency of Bombay.

Preamble. WHEREAS it is expedient to provide for the regulation of the Village-police in the Presidency of Bombay; It is enacted as follows:—

Interpretation of terms. **1.** The terms "Commissioner of Police," "District Superintendent" and "Assistant Superintendent of Police," "Police-officer" and "District-police," when used in this Act mean those constituted under the "Bombay District Police Act, 1867."

2.—[*Repealed by Act No. XII of 1873.*]

Administration, control, and direction of village-police, in whom vested **3.** The administration of the Village-police throughout each district shall, under the control and direction of the Commissioner of Police, be exercised by the Magistrate of the District, who may, with the sanction of the Commissioner of Police, delegate any portion thereof to any Magistrate with full powers having also revenue-charge as an Assistant or Deputy Collector.

Power to depute to District Superintendent authority over village-police officer.

4. It shall be lawful for the Magistrate of a district, with the sanction of the Commissioner of Police, to depute to the District Superintendent of Police any authority which may be exercised by the Magistrate of a district for the purposes of Police over any village-police-officer.

Village-police in villages under charge of Police-patel.

5. *First.*—The village-police in each village shall be under the charge of such person as the Magistrate of the district shall, subject to the approval of the Police Commissioner, appoint in writing to be Police-patel, and unless the Commissioner of Police, owing to the size of the village or other good cause, see fit to separate the appointments, the Magistrate of the district shall appoint the person conducting the duties of Revenue-patel to be Police-patel.

Appointment of Police-patel.

Second.—In making the appointment, the said Magistrate shall have due regard to the provisions in force for regulating the services of hereditary officers, so far as the same be applicable; but when the Revenue-patel is not appointed Police-patel, and more persons than one claim by reason of hereditary right to perform the duties, in rotation or otherwise, it shall be lawful for the Magistrate of the district to appoint the most fit from among their number.

Police-patels may be appointed for different divisions of town or place.

Third.—In any town or place in which the duties cannot be efficiently performed by one Police-patel, the Magistrate of the district may, with the consent of the Commissioner of Police, appoint a sufficient number of Police-patels for the different divisions of the town or place.

Duties of Police-patel.

6. The Police-patel shall, subject to the orders of the Magistrate of the district, act under the orders of the Magistrate within whose local jurisdiction his village is situated, whom he shall furnish with any returns or information called for, and keep constantly informed as to the state of crime and all matters connected with the village-police, the health and general condition of the community in his village.

He shall also afford all Police-officers every assistance in his power when called upon by them for assistance in the performance of their duty.

He shall further promptly obey and execute all orders and warrants issued to him by a Magistrate or Police-officer, shall collect and communicate to the District Police intelligence affecting the public peace, shall prevent within the limits of his village the commission of offences and public nuisances, and shall detect and bring offenders therein to justice.

Authority over village-servants.

7. The Police-patel shall have authority to require all village-servants in whatever capacity ordinarily employed, to aid him in performing the duties entrusted to him; and it shall be the duty of the village-revenue-accountant, whether hereditary or stipendiary, to frame all written returns and proceedings for the Police-patel.

Precautions against robbery, &c.

8. The Police-patel shall dispose of the village-establishment so as to afford the utmost possible security against robbery, breach of the peace, and acts injurious to the public and to the village-community, and shall report to the Magistrate to whose jurisdiction he is immediately subordinate all instances of misconduct or neglect committed by any member of the said establishment.

Penalties for neglect of duty, &c.

9 Any Police-patel or member of a village-establishment liable to be called on for the performance of Police-duties who shall be careless or negligent in the discharge thereof, shall be liable to be fined under the order of any Magistrate of the first class to any amount not exceeding the fourth part of the annual emoluments of his office.

If he shall be accused of any violation of duty or breach of rule, or of other misconduct which shall seem to such Magistrate to require a heavier punishment, he may suspend him from office during inquiry into such accusation, and at the close of such inquiry, if the said Magistrate shall consider him guilty of misconduct meriting such punishment, he may suspend him from office for a further period not exceeding six months, or dismiss him: Provided that no person of the rank of patel shall be dismissed under this section without the sanction of the Police Commissioner.

Liability to criminal prosecution not affected.

9A. Nothing in the last preceding section shall affect the liability of any Police-patel or other member of a village-establishment to a criminal prosecution for any offence with which he may be charged.

Power to suspend during trial

Any Magistrate of the first class may suspend any such person subjected to any such prosecution pending the inquiry and trial.

Information to officer in charge of District Police-station when criminal in village has escaped or is not known.

10. If a crime shall have been committed within the limits of the village, and the perpetrator of the crime has escaped or is not known, the Police-patel shall forward immediate information to the Police-officer in charge of the District Police-station within the limits of which his village is situated, and shall himself proceed to investigate the matter, obtaining all procurable evidence relating to it which he shall forward to the said officer.

Inquest in cases of unnatural or sudden death, or corpse found within village.

11. *First.*—If any unnatural or sudden death occur, or any corpse be found, within the bounds of any village, the Police-patel shall forthwith assemble an inquest, to be composed of two or more intelligent persons belonging to the village or neighbourhood, who shall investigate the causes of death and all the circumstances of the case, and make a written report of the same, which the Police-patel shall cause to be forthwith delivered to the Police-officer in charge of the District Police-station within the limits of which the village is situated.

Punishment for refusing or neglecting to serve on inquest.

Second.—Any person who on being called upon by the Police-patel to serve as a member of such inquest shall without justifiable cause refuse or neglect to do so, shall be liable, on conviction before a Magistrate, to punishment not

exceeding fifty rupees fine, or, in default of payment, to imprisonment for one month.

Corpse when forwarded to nearest Civil Surgeon, &c., for examination.

Third.—If the results of the inquest afford reason for supposing that death has been unlawfully occasioned, the Police-patel shall give immediate notice to the officer in charge of the District Police-station within the limits of which his village is situated, and if the corpse can be forwarded without the risk of putrefaction by the way, shall at once forward it to the nearest Civil Surgeon or other medical officer appointed by Government to examine corpses under such circumstances, who shall endeavour to ascertain the cause of death.

When burning to be delayed till officer in charge of Police-station assents.

Should the Police-patel be unable to forward the corpse without the risk of putrefaction rendering examination useless or dangerous, he shall nevertheless prevent the burning or burying of such corpse until the Police-officer in charge of the District Police-station within the limits of which his village is situated, or one of his subordinates deputed by him or a Magistrate, shall have assented thereto.

Police-patel to apprehend person he believes has committed serious offence.

12. *First.*—The Police-patel shall apprehend any person within the limits of his village who he may have reason to believe has committed any serious offence, and shall forward such person, together with all articles likely to be useful as evidence to the Police-officer in charge of the Police-station within the limits of which his village is situated.

Person apprehended to be forwarded to Police-station.

Second.—Every person so apprehended shall be forwarded within twenty-four hours to the District Police-station within the limits of which the village is situated.

Power to call and examine witnesses, record evidence, and search for concealed articles.

13. *First.*—The Police-patel, in making any inquiry coming within the scope of his duty, not being a case in which it is competent for him to inflict punishment, shall have authority to call and examine witnesses, and record their evidence on solemn affirmation, and to search for concealed articles, taking care that no search be made in a dwelling-house between sunset and sunrise without urgent occasion.

Power to enter limits of other villages.

Second.—He shall also have authority, in carrying out any search or any pursuit of supposed criminals, to enter and act within the limits of other villages, being bound however to give immediate information to the Police-patel thereof, who shall afford him all the assistance in his power, and be immediately responsible for continuing the search or pursuit.

Power to try and punish for petty assault or abuse.

14. The Police-patel shall have authority to try and, on conviction, to punish with confinement in the village-chaunrí, for a period not exceeding twenty-four hours, any person charged with committing within the limits of the village petty assault or abuse: provided the charge be laid within eight days of the offence having been committed.

Commissioner of Police may authorize Magistrate to commission Police-patel to try certain offenders.

15. *First.*—It shall be lawful for a Commissioner of Police by an order in writing to authorize any Magistrate of a district to issue a commission to any person exercising the office of a Police-patel, empowering such Police-patel to try any person charged with any of the following offences committed within the limits of the village in which he is Police-patel, that is to say:

mischief or petty theft, when the estimated value of the property stolen, or of damages sustained, does not exceed two rupees;

resistance or refusal to obey a lawful order issued by such Police-patel personally.

Power of patel to punish.

Second.—And it shall be lawful for a Police-patel so empowered to sentence any person convicted before him of any of the above acts to punishment by fine not exceeding rupees five, or confinement in the village-chaunrí for a period not exceeding forty-eight hours, the confinement, in cases of resistance or refusal to obey a lawful order, to be awardable only on a failure to pay a fine.

Power to prohibit, and to punish for—

16. The Police-patel, when and as long as he shall be empowered under section 15, clause 1, shall also have authority to punish by a fine not exceeding one rupee, or, in default of payment, by confinement in the village-chaunrí for a period not exceeding twelve hours, any person committing any of the nuisances or disorderly acts below described, and to forbid the continuance or repetition of such nuisances or acts, that is to say—

beating, &c., animal;

(1) any person who wantonly or cruelly beats, ill-uses or tortures any animal:

bathing, washing in, or defiling, well, &c.;

(2) any person who bathes or washes in, or otherwise defiles or causes to be defiled, any public well, tank or reservoir, so as to render it less fit for any purpose for which it is set apart:

depositing dirt, &c.;

(3) any person who deposits in forbidden places any dirt, filth or rubbish:

committing nuisance, &c.;

(4) any person who, on any public street, passage or thoroughfare, commits nuisance by easing himself, or who is, from intoxication, riotous, disorderly or incapable of taking care of himself:

(5) any person

accumulating offensive matter in cesspools, &c;

who without sufficient cause wilfully allows to accumulate any offensive matter in cesspools, dung-heaps or the like, so as to cause annoyance to the neighbouring residents or to passengers, or

allowing offensive matter to issue on thoroughfare,

who without sufficient cause wilfully allows any offensive matter to issue on to any public thoroughfare from any house, factory, stable, privy or the like, or

depositing

who deposits the bodies of dead animals, or refuse or filth of any description,

either in channels which in the rainy season feed any tank or reservoir set apart for drinking, or in other places where to deposit such is offensive to the community. dead bodies so as to corrupt water for drinking.

17. The proceedings under sections 14, 15 and 16 shall be oral and held in presence of the parties, and it shall be optional with the complainant to withdraw his complaint at any time before conviction is recorded. Proceedings how taken under sections 14, 15 and 16.

The Police-patel shall record the names of the parties, the finding, sentence or order, or the withdrawal of the charge, with the date of proceedings, and shall forward the same to the Magistrate to whom he is immediately subordinate, in such form and through such channel, and at such times, as the Magistrate of the district shall prescribe.

18. It shall be lawful for the Magistrate of a district, with the sanction of the Commissioner of Police, by an order in writing, to cancel either in whole or in part any commission issued under section 15 of this Act. Power to cancel commission issued under section 15.

19. The Police-patel shall take charge of all unclaimed property found within his village, or made over to him under the provisions of the Bombay District Police Act of 1867, and shall forthwith make a report to the Magistrate to whom he is subordinate, and act thereafter as he may be directed by the said Magistrate, unless the property be of a description coming within the provisions of Act III of 1857 (*an Act relating to trespasses by cattle*), in which case the Police-patel shall be guided by that enactment. Unclaimed property.

20. Nothing contained in this Act shall be construed to prevent the prosecution of any person under any other Regulation or Act for any offence made punishable by this Act, or from being liable under any other Regulation or Act to any other higher penalty or punishment than is provided for such offence by this Act; Prosecution under other Regulations, &c., for offence punishable by Act.

provided that no person shall be punished twice for the same offence.

21. In case of the Police-patel being unable to attend to his duty, owing to urgent absence from the village, sudden illness or other cause, he shall place a competent kinsman, or failing a competent kinsman some other competent person, in charge of his office, making an immediate report to the Magistrate to whom he is immediately subordinate; and the person so placed in charge shall, until the receipt of instructions to the contrary, continue to act for the Police-patel in all his duties except those which involve the trial and punishment of offenders. Provision in case of absence, sudden illness, &c., of Police-patel.

22. The term "District Police-station" in this Act shall include the villages or places within the limits of the charge of a Police-officer in charge of a station. "District Police-station" defined.

23.—[*Repealed by Act No. XII of 1876.*]

24. This Act may be cited as the "Bombay Village Police Act, 1867." Short title.

ACT No. II of 1868.

Received the Governor's assent on the 13th of October, 1868, and the Governor General's assent on the 19th of November, 1868, and published by the Governor on the 17th of December, 1868.

An Act to amend the law relating to public ferries in the Presidency of Bombay.

Preamble. WHEREAS it is expedient to amend the law relating to public ferries in the Presidency of Bombay; It is enacted as follows :—

1.—[*Repealed by Act No. XII of 1873.*]

Government may constitute public ferries, establish new and discontinue existing ferries.

2. It shall be lawful for Government to declare by notification what ferries within the Presidency of Bombay shall be deemed public ferries, and also, by notification from time to time, to establish any new public ferry or discontinue any existing public ferry.

Rates of toll.

3. Tolls, according to such rates as shall from time to time be approved by Government, shall be levied upon all passengers, carts, carriages, cattle and other animals, and on all goods and merchandise carried over any public ferry:

Exemption from toll.

Provided always that no tolls shall be levied from—

(*a*) any soldier in uniform on duty:

(*b*) any Police-officer in uniform on duty:

(*c*) any person in the custody of the Police:

(*d*) any person whom the Governor in Council shall, by notification in the *Bombay Government Gazette*, deem fit specially to exempt from payment of such tolls.[a]

Appointment and salaries of toll-keepers, &c.

4 It shall be lawful for Government to provide for the appointment of toll-keepers, ferrymen and other servants for the management and conduct of any public ferry; and the salaries of such persons shall be defrayed from funds raised under this Act, or from other sources of local revenue, but not from the general or imperial revenues, except with the sanction of the Governor General in Council.

Government may lease public ferries by public auction or private contract.

5. It shall be lawful for Government to lease any public ferry by public auction or private contract, from year to year, or for any longer period not exceeding seven years, on such conditions as Government deems advisable, in which case a contract setting forth the conditions on which the ferry is to be held shall be executed by the contractor or farmer, and security shall be given by him for its due fulfilment, and any pecuniary forfeiture for breach of con-

[a] See Bombay Act No II of 1878.

tract inserted in the deed of contract or conditions of sale by public auction, as the case may be, may be enforced in the same manner as a demand for the land-revenue under the law for the time being in force, so far as applicable.

Acts of servant of contractor.

6. When a public ferry has been duly leased or farmed out,

every servant of the lessee, contractor or farmer shall be deemed to be legally bound to do everything necessary for or conducive to the safety of the public which he shall be required to do by any regulation made by the lessee, contractor or farmer, and approved by Government, and of which regulation such servants shall have had notice, and

every such servant shall be deemed to be legally prohibited from doing every act which shall be likely to cause danger, and which by any such regulation he shall be prohibited from doing, and

every person employed by or on behalf of such lessee, contractor or farmer, to do any act upon the ferries shall be deemed to be a servant of the lessee, contractor or farmer.

Table of tolls to be hung up.

7. It shall be the duty of every toll-keeper, toll-contractor or farmer to hang up in some conspicuous place at his ferry-station a table of tolls, written or printed in English and in the language of the district.

Penalty in respect to table of tolls.

8. Any toll-keeper or toll-contractor or farmer

who shall neglect to hang up and keep in good order and repair a table of tolls as aforesaid, or

who shall wilfully remove, alter or deface the same, or allow it to become illegible,

shall be liable on each conviction to a penalty not exceeding ten rupees.

Penalty for taking unlawful toll.

9. Any toll-keeper or other person appointed as in section 4 who shall neglect to take the due toll, or shall ask or take any toll other than is allowed by the table of tolls, and

any toll-contractor or farmer, or any person in the service of a toll-contractor or farmer, who shall ask or take any toll in excess of that allowed by the table of tolls,

shall be liable to a penalty not exceeding fifty rupees.

Penalty for wilful delay.

10. Any toll-keeper or other person appointed as in section 4, or toll-contractor or farmer or person in the service of a toll-contractor or farmer, who without good reason shall delay any passenger, cart, carriage, animal or goods, shall be liable to a penalty not exceeding fifty rupees.

Penalty for refusal or evasion of toll, and for obstruction or damage.

11. Any person

who shall refuse to pay the lawful toll, or

who with intent of avoiding payment thereof, shall pass through any ferry-station without paying the toll, or

who shall obstruct in the execution of his duty any toll-keeper or other person lawfully engaged in the management or conduct of a public ferry, and also

any person who shall maliciously damage any toll-bar, boat or other thing belonging to a public ferry, or

who shall maliciously remove, alter, destroy or damage any table of tolls hung up as hereinbefore directed,

shall be liable to a penalty not exceeding fifty rupees, over and above the value of the damage done.

Officers who may make rules for regulation of public ferries.

12. The Senior Magistrate of Police in the city of Bombay, and the Collector of the district elsewhere, may, subject to such general directions as Government from time to time may issue, make rules to determine the number of passengers, carts, carriages and animals, and the quantity of goods that may be carried in any public ferry-boat at one trip, and for the safe, speedy and convenient carriage and landing of passengers and property, and for keeping the ferry-boats in good order, and otherwise for the due discharge of their duty by toll-contractors or farmers, toll-keepers, ferrymen and other persons employed at a public ferry;

and any toll-contractor or farmer, toll-keeper, ferryman or other person infringing or disobeying any such rule shall be liable to make good any loss or damage caused thereby, which loss or damage may be summarily ascertained by any Magistrate within whose jurisdiction the offence was committed, and the amount thereof may be recovered as any penalty under this Act may be recovered.

Penalty for conveying passengers or goods without license at Bombay.

13. Any person who, without the special license of Government, shall convey for hire any passenger, animal, cart, carriage or goods from any part of the city of Bombay across the harbour of Bombay to the mainland, or any of the adjacent islands, or from the mainland or any of the adjacent islands to any part of the city of Bombay, shall be liable to a penalty not exceeding five hundred rupees;

Proviso.

but this penalty shall not apply to the conveyance by boat for hire of passengers, animals, carts, carriages and goods from one part of the city of Bombay to any other part thereof, nor to any person specially hiring a boat for the conveyance of himself or his family or friends, or servants or goods, nor to the person letting such boat for hire for the said purpose.

Penalty for carrying passengers, &c., within three miles of public ferry.

14. Any person who, except as in the section last preceding, shall convey for hire any passenger, animal, cart, carriage or goods across any creek or river within the Presidency of Bombay to any point on the opposite shore or bank, not being more than three miles on either side above or below any public ferry, without the license of the Collector of the district in which the

ferry is situated, shall be liable to a penalty not exceeding five hundred rupees.

Penalty for conveying animal, &c., across creek or ferry near toll-bridge.

14A. Any person who, except as is aforesaid, shall convey for hire any animal, cart, carriage or goods across any river or creek between two points both of which are less than three miles distant from a bridge at which under the provisions of any law for the time being in force a toll is leviable on animals, carts or carriages; or

For conveying passengers, &c., near such bridge.

who shall convey for hire any passengers, or any pálankín, dúlí, pálná or tonjon, or other thing across any river or creek between two such points as aforesaid when under the provisions of any law for the time being in force a toll is leviable at the bridge on passengers, pálankíns, dúlís, pálnás, tonjons or such other thing,

shall be liable to a penalty not exceeding five hundred rupees.[a]

Trial of offences in Bombay;

15. In the city of Bombay offences against this Act shall be summarily heard and determined by any Magistrate of Police, and all fines imposed may, in default of payment, be levied under the warrant of such Magistrate by distress and sale of the goods of the offender.

in places out of city.

In places not within the limits of the city of Bombay offences against this Act shall be inquired into and determined by any Magistrate exercising jurisdiction in the district in which the offence has been committed, and all fines imposed may be levied in the manner provided in section 307[b] of the Criminal Procedure Code.

Recovery of fines.

Application of proceeds of tolls, farms and penalties.

16. *First.*—In each district the proceeds from tolls and farms of public ferries, and from penalties levied under this Act, shall form the ferry-fund of such district, and shall be appropriated in the first instance to the maintenance of the public ferries of the district, and the improvement of the roads leading to the said ferries, the surplus, if any, being expended on local works in the district in such manner as Government may from time to time direct.

Second.—The limits of each district for the purposes of this section shall be such as Government may from time to time determine.

Third.—When a public ferry is partly in one district and partly in another, it shall be lawful for Government to assign to each district such proportion of the proceeds as they shall deem fit.

Government may delegate powers.

17. Government may delegate, under such restrictions as may seem fit, any of the powers conferred on it by this Act, *ex officio*, to any Revenue or Police Commissioner, Collector, Magistrate or other person.

Short title.

18. This Act may be cited as the "Bombay Ferries Act, 1868."

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[a] See Bombay Act No. II of 1878.
[b] See Act No. X of 1872, sch. V.

ACT No. III of 1868.

Received the Governor's assent on the 4th of December, 1868, and the Governor General's assent on the 31st of December, 1868, and published by the Governor on the 1st of January, 1869.

An Act to amend the schedule annexed to Act No. V of 1867 (Bombay).

Preamble. WHEREAS it has been deemed expedient to revise the schedule annexed to Act No. V of 1867 (Bombay), and to empower Government to amend the said schedule so as to avoid the necessity of having recourse to legislation when any modification is required in the list of persons privileged under section 15 of (Bombay) Act XII of 1866; It is enacted as follows:—

Schedule substituted in Act XII of 1866

1. The schedule annexed to this Act shall be taken to be and shall be the schedule to which reference is made in section 15 of Act No. XII of 1866 (Bombay).

Power to amend schedule by notification.

2. It shall be lawful for Government from time to time by notification to amend the schedule to which reference is made in section 15 of (Bombay) Act XII of 1866, and the schedule so amended shall be taken to be, and shall be, from the date of such notification, the schedule to which reference is made in section 15 of the said Act:

Provided always, that no person shall be included in the said schedule who is not a member of one of the late reigning families in Sindh.

[Schedule, see *supra*, p. 261.]

ACT No. III of 1869.

Received the Governor's assent on the 22nd of February, 1869, and the Governor General's assent on the 24th of March, 1869, and published by the Governor on the 3rd of April, 1869.

An Act to provide in the Presidency of Bombay funds for expenditure on objects of local public utility and improvement, and to constitute local committees for the due administration of such funds.

Preamble. WHEREAS it is expedient to provide funds for local works of public utility and convenience, and to make better provision for education and sanatory improvements in the Presidency of Bombay; and whereas it is expedient to

constitute local committees to provide for the due appropriation of such funds to the purposes aforesaid; It is enacted as follows:—

1. Government may from time to time, by notification, define the limits of any district for the purposes of this Act. Government may define limits of district.

2. In every district in the Presidency of Bombay, it shall be lawful for Government to create, for the purposes hereinafter described, a local fund committee of the district. Local fund committee of district.

The members shall be not fewer in number than eight, inclusive of the president; one-half at least shall be non-official persons, and they shall be selected and appointed by Government, or by the Revenue Commissioner or other officer from time to time duly empowered on that behalf by Government.

The Collector or Sub-Collector shall, *ex officio*, be the president, and the committee shall act under the control and general supervision of the Revenue Commissioner.

The members shall be removeable by Government, and all proceedings of the committee, or orders of the Revenue Commissioner relating thereto, shall be subject to the review and control and final decision of Government, which final decision a local fund committee shall be bound to carry out.

3. The local fund committee of each district shall sue and be sued in the name of the president by the description of "The president of the local fund committee of the district of————." Committee to sue and be sued in name of president.

In such name, so described, the committee shall be competent to hold property, moveable and immoveable, to convey the same, and to enter into all necessary contracts for the purposes of this Act.

Any deed, contract or instrument so made on behalf of the said local fund committee may be executed by the president of the committee.

4. It shall be the duty of the local fund committee of each district to ascertain, and, in so far as the means at its disposal will allow, to provide for, the requirements of the district, with respect to works and undertakings calculated to promote the local public health, education and convenience, including roads, schools, hospitals, dispensaries, dharmsálas, markets and wells and other works for improving the water-supply. Committee to provide for roads, schools, hospitals, &c.

5. In the performance of the duties imposed by this Act, it shall be lawful for the local fund committee of each district, in accordance with such rules as may from time to time be prescribed on that behalf by Government, to employ such officers and establishments as may be necessary, so long as they shall be necessary; and in accordance with the said rules to make, out of the funds at its disposal, suitable payments by way of remuneration to such officers and establishments, or otherwise in furtherance of any of the purposes of this Act. Officers and establishments for purposes of Act.

Levy of one anna cess on every rupee of land-revenue for purposes of Act.

6. It shall be lawful for Government to levy for the purposes of this Act, on the conditions and in the manner hereinafter described, from all lands in the Presidency of Bombay, except jágír-lands not under the general Regulation, and also from every farmer of land or sáír revenue in respect of any such farm taken from the Collector or other officer on behalf of Government after the date on which this Act comes into operation, a cess not exceeding one anna on every rupee that is assessable to the ordinary land-revenue, or that would have been so assessable had there been no alienation of such revenue, and on every rupee that is payable by such farmer of land or sáír revenue in respect of such farm :

Proviso

Provided that in respect of lands of which a settlement for a term of years is for the first time made after this Act comes into operation such cess be imposed at the time when such settlement is made, and at no other period during the currency of the term.

Rules for assessment

7. In assessing this cess on alienated villages as defined in (Bombay) Act I of 1865, the following rules shall be adopted :—

I. If the village has been surveyed and assessed on the principles laid down in (Bombay) Act I of 1865, the cess shall be fixed on the total annual assessment of the village as made by the survey-officers.

II. If the village has come under summary settlement under (Bombay) Act II or (Bombay) Act VII of 1863, the cess shall be fixed, until the village is brought under the preceding rule, on the total annual assessment as settled for the purposes of summary settlement.

III. On villages not included in the preceding rules, the cess shall be fixed on the old or kammál rate recorded in the Collector's books; but if this rate be objected to by the holder or proprietor of the alienated village, then the cess may be fixed as agreed on by the Collector and such holder or proprietor, or failing agreement, then by a rough survey and assessment to be made by survey-officers, the expense of such rough survey being borne, half by Government and half by the holder or proprietor of such village.

Cess to be levied as land-revenue.

8. The cess described in sections 6 and 7 of this Act shall be levied in the same manner, and under the same provisions of law, as the ordinary land-revenue, and through the agency of such officers as shall from time to time be appointed for the purpose by the Collector, acting under the general control of Government or of the Revenue Commissioner, or other officer from time to time duly empowered on that behalf by Government.

The provisions of the law relative to the assistance to be given to superior

holders for the recovery of their dues from their tenants and occupants under them shall be applicable to all superior holders, whether of alienated or unalienated land in respect of the recovery of this cess from their tenants and occupants and shall be applicable also to occupants of land under (Bombay) Act I of 1865 for the recovery of this cess from their tenants or joint occupants.

Collector to render accounts to local fund committee.

9. The Collector of each district shall annually render to the local fund committee of that district an account showing the gross receipts and charges of collection of the cess levied under this Act in the same district, and shall place the nett proceeds of such cess to the credit of the district local fund, and such proceeds shall be expended on the objects mentioned in sections 4 and 5, and on no others.

Assignment to municipal commission in towns.

Nothing in this section shall be held to prevent the local fund committee, in towns in which a municipal commission exists under any law for the time being in force, from assigning, with the sanction of the Revenue Commissioner, a portion of such nett proceeds for expenditure by the municipal commissioners:

Proviso.

Provided that such assignment do not exceed the nett amount of cess levied from the inhabitants of such municipal town.

And the portion of such nett proceeds so assigned shall be applied to any of the purposes mentioned in sections 4 and 5, and to no other purposes.

Administration of other funds.

10. The local fund committee of each district shall also, subject to the provisions and conditions hereinbefore enacted, administer such other funds as may from time to time be placed at their disposal either under the orders of Government or by contributions from private individuals.

Local fund committee to keep accounts.

11. An account of all receipts and disbursements of the funds at the disposal of each local fund committee shall be kept by such committee, and copies in the vernacular language of the district shall be circulated for the information of the local public, and shall further be published in the vernacular paper of the district, if any;

Abstract accounts to be published.

and further, an abstract account of each local fund shall be published annually in the Government Gazette by the Revenue Commissioner, in both English and the vernacular language of the district, which account shall show the amount of cess levied under this Act, and of other funds placed at the disposal of each of the local committees, and the mode in which the same has been applied, and the balance, if any, remaining undisposed of at the close of the year.

Power of Government to make rules.

12. It shall be lawful for Government from time to time to make, and from time to time to vary or repeal, rules for the guidance of officers in matters connected with the enforcement of this Act, provided such rules are not inconsistent with the provisions contained in the Act.

Such of the said rules as shall be published shall, until they are varied or repealed, be of the like effect as if they were inserted in the Act.

"Collector" and "Sub-Collector" defined.

13. In this Act, the words "Collector" and "Sub-Collector" shall be held to include any one acting for a Collector or Sub-Collector respectively, or any one in charge of the office of a Collector or Sub-Collector respectively. And any of the powers given by this Act to a Collector or Sub-Collector may be specially delegated by him to any Assistant or Deputy Collector.

14.—[*Repealed by Act No. XII of 1873.*]

Sindh and city of Bombay excluded.

15. This Act is not applicable to the Province of Sindh or to the city of Bombay.

Short title.

16. This Act may be cited as the "Bombay Local Funds Act, 1869."

ACT No. II OF 1870.

Received the Governor's assent on the 1st of October, 1870, and the Governor General's assent on the 26th of November, 1870, and published by the Governor on the 5th of December, 1870.

An Act to enable the Government of Bombay to prescribe the official seals of the Magistrates.

Preamble.

WHEREAS it is expedient that Government should be empowered from time to time to direct what official seals shall be used by Magistrates of Police and other Magistrates of whatever designation exercising all or any of the powers of a Magistrate; It is enacted as follows:—

1.—[*Repealed by Act No. XII of 1873.*]

Government empowered to prescribe seals.

2. It shall be lawful for Government from time to time to direct by notification in the Government Gazette what official seals shall be used by the several Magistrates of Police and other Magistrates of whatever designation exercising all or any of the powers of a Magistrate within the Presidency of Bombay.

ACT No. III OF 1870.

Received the Governor's assent on the 1st of October, 1870, and the Governor General's assent on the 1st of December, 1870, and published by the Governor on the 8th of December, 1870.

An Act to secure the payment to Government of certain sums of money by the Corporation of the Justices of the Peace for the city of Bombay.

Preamble.

WHEREAS the Government of India has advanced the Corporation of the

Justices of the Peace for the city of Bombay a sum of fifteen lákhs of rupees; and whereas it is necessary to make certain provisions for the repayment of the same, and for further securing the payments to the credit of the Secretary of State for India in Council of certain sums of money by the Corporation of the Justices of the Peace for the city of Bombay in preference to, and with priority over, all incumbrances and claims to such moneys other than those created under the provisions of this Act; It is enacted as follows:—

Period for repayment.

1. The whole of such loan of fifteen lákhs of rupees shall be repaid with interest at five per cent. within ten years from the first August, 1869.

Mode of repayment.

2. To secure the repayment of such loan with interest as aforesaid, the municipal commissioner, on behalf of the said Justices, on the first day of every month after the passing of this Act until the whole of such loan be liquidated, shall pay into Her Majesty's treasury or into the account of Her Majesty's treasury in any bank as may now or hereafter be appointed to conduct the business of Her Majesty's treasury in Bombay, the sum of rupees sixteen thousand; and notice of such payment having been made shall be forthwith published by the municipal commissioner in two English daily newspapers and one vernacular daily newspaper published in Bombay, and in the next Government Gazette.

Payment of sums payable on account of Vehar water-works.

3. To secure the payment of the sums payable by the said corporation to Government on account of the Vehar water-works under section 7 of the Bombay Municipal Act of 1865, the municipal commissioner, on behalf of the said Justices, on the first day of every month after the passing of this Act until the whole of the debt to Government in respect thereof be liquidated, shall pay to the account of Her Majesty's treasury as aforesaid the sum of fourteen thousand and six hundred rupees, and notice of such payment having been made, shall be forthwith published by the municipal commissioner in two English daily newspapers and one vernacular newspaper published in Bombay, and in the next Government Gazette.

Course to be pursued in case of non-payment.

4. If the municipal commissioner shall neglect to make any of the payments specified in this Act at the times mentioned, the controller of municipal accounts shall, within forty-eight hours, report the fact to the chief Secretary to Government or other officer acting in that capacity, who shall have power to direct any Government-officer, not being an officer holding a municipal appointment under Bombay Act II of 1865, to detain in his hands, to the extent of any payment or payments then in arrear, any moneys due to or accruing for the benefit of the Corporation of the Justices of the Peace for the city of Bombay which he may then or thereafter have in his custody or control, and such officer shall be bound to detain the moneys as directed, and to pay the same into Her Majesty's treasury or into any bank as aforesaid to the

credit of the Secretary of State for India in Council, in preference to, and with priority over, all incumbrances and claims to such moneys other than those created under the provisions of this Act.

Account of balances due to Government to be published.

5. The municipal commissioner shall in the month of January in each year publish in the Government Gazette an account showing the balances due by the Corporation of the Justices of the Peace for the city of Bombay on the thirty-first December preceding, on the several accounts hereinbefore specified.

Rights and remedies of Government for recovery of loan not affected.

6. Nothing in this Act shall affect the rights or remedies which the Government of India have or shall have independently of this Act for the recovery of the said loan of fifteen lákhs or any part thereof, or the remedies which independently of this Act exist for the recovery of the sum payable by the said Corporation to Government on account of the Vehar water-works.

ACT No. II of 1871.

Received the Governor's assent on the 29th of April, 1871, and the Governor General's assent on the 8th of June, 1871, and published by the Governor on the 1st of July, 1871.

An Act for imposing duties on certain of the non-agricultural classes in the territories subordinate to the Presidency of Bombay.

Preamble.

WHEREAS it is expedient to impose duties on certain of the non-agricultural classes in the territories subordinate to the Presidency of Bombay; It is enacted as follows:—

Interpretation-clause.

1. In this Act, unless there be something repugnant in the subject or context—

"Collector."

"Collector" means the chief officer charged with the administration of a district in revenue-matters, by whatever designation such officer is called:

"Sub-Collector."

"Sub-Collector" means any officer or class of officers authorized by Government to exercise the powers and perform the duties conferred and imposed on a Sub-Collector by this Act:

"Household."

"household" means the members of one family living together in the same house or in any portion of a house held as a separate tenement.

Exemptions.

2. Nothing in this Act applies to non-commissioned officers and privates of Her Majesty's forces or of Her Majesty's Indian forces who are not in civil employment.

City excluded.

3. Nothing in this Act applies to the city of Bombay.

Act not to apply to towns and suburbs required to provide for Police.

4. Nothing in this Act applies to towns and suburbs required under any law for the time being in force to provide for the cost of the Police employed therein:

Provided that the quartering of additional Police under Bombay Act VII of 1867 in any town or suburb shall confer no right to exemption under this section.

Power to exempt any class or to modify order for exemption.

5. Government may from time to time by order wholly or partially exempt from the operation of this Act any tribe or class of persons, and may from time to time modify or revoke such order.

Orders to be published.

All orders, modifications and revocations of orders made under this section shall be published in the Government Gazette.

Person carrying on trade to pay duty according to schedule.

6. Every person being a head of a household, or occupying a separate tenement and not assessed to the cess leviable under the provisions of (Bombay) Act III of 1869 on every rupee of land-revenue, or who, being so assessed, carries on any profession, trade or calling (whether on behalf of himself or of any other person) other than the cultivation of land, shall be required as hereinafter provided to pay a duty fixed by Government, not exceeding the duties specified in the schedule hereto annexed.

Persons required to pay duty to be assessed under different classes.

7. Every person required to pay such duty shall be assessed under one of the three classes specified in the said schedule according to the means of livelihood possessed by himself or the household of which he is the head.

Subject to rules to be made by Government as hereinafter provided, and to the control of the Collector, the Sub-Collector shall decide the class, if any, under which any person shall be assessed.

List of persons liable to duty to be made by Sub-Collector and to state profession, trade, &c.

8. The Sub-Collector shall, on or before the first day of July, 1871, and the first day of April of every subsequent year, make a list of the persons liable to pay duty under this Act, and such list shall state the profession, trade or calling of each person therein named, and the class under which he is assessed.

List to be filed in Sub-Collector's office.

Such list shall be filed in the office of the Sub-Collector, and on request shall be exhibited for inspection without fee to every person chargeable under this Act.

Notice to be served by Sub-Collector; contents of notice.

9. The Sub-Collector shall cause a notice to be served on every person chargeable under this Act, stating—

(1) the name and calling of the person chargeable;

(2) the year for which the duty is to be paid;

(3) the amount to be paid;

and requiring him within one month from the date of the service to pay such amount.

Duty to be paid to Sub-Collector, who shall give receipt.

10. Such amount shall be paid to the Sub-Collector, who shall give a receipt for such payment to the person making the same:

Proviso.

Provided that, if such person has more than one place of residence, the duty

shall be levied at and payment made to the Sub-Collector for the place or district at or in which such person ordinarily resides.

Receipt by whom to be signed.

Every such receipt shall be signed by the Sub-Collector granting it or by such other officer as he shall from time to time empower in this behalf.

What receipt shall specify.

11. Every such receipt shall specify—

(1) the name and calling of the person by or on whose behalf the duty is paid;

(2) the year for which the duty is paid;

(3) the amount paid, and the date of payment;

and shall be admissible as *primâ facie* proof of all matters contained therein.

Petition by objector to assessment.

12. Any person objecting to the amount at which he is assessed or denying his liability to be assessed may, within fifteen days from the date of service of notice under section 9, apply by petition to the Sub-Collector to have the assessment reduced or cancelled.

Sub-Collector to fix day for hearing of petition.

13. The Sub-Collector shall fix a day and place for the hearing of the petition, and on the day and at the place so fixed, or on the day, and at the place, if any, to which he has adjourned such hearing, shall hear such petition and pass his order thereon.

Such order may be in favour of petitioner or it may simply reject the petition, or it may reject the petition and enhance the rate of duty to that of a higher class, in which case the amount shall be specified in the order.

If the order be in favour of the petitioner, the Sub-Collector shall at once refund the fee on the petition.

If the order reject the petition, the petitioner shall, within one week from the passing of the order, pay the amount found to be due.

Collector may call for and pass orders on proceedings of Sub-Collector.

14. It shall be lawful for the Collector, whenever he thinks fit, to call for the proceedings of any Sub-Collector in his district and pass such order thereon as to him shall seem right.

Date of payment of duties.

15. Duties imposed by this Act shall be payable on the first day of July in the year 1871, and on the first day of April in every subsequent year.

Recoveries how made in case of default.

16. In any case of default in the payment of duty under this Act, the Sub-Collector may, after the expiration of one month from the date of service of notice, as provided in section 9, recover from the defaulter a sum not exceeding double the amount of the duty payable.

Every such sum shall be recoverable as an arrear of land-revenue:

Proviso.

Provided that, where any person has presented a petition under section 12, such sum shall not be recoverable from him unless within one week from the passing of the order on such petition he fails to pay the amount (if any) required by such order.

On recovery from the defaulter of the amount for which he is liable under

this section, the Sub-Collector shall forthwith grant him a receipt without any further payment in the form and manner hereinbefore provided.

Order under Act final.

17. Except as hereinbefore provided, every order made under this Act shall be final and conclusive.

Powers of Collector or Sub-Collector exerciseable by officers appointed.

18. All or any of the powers and duties conferred and imposed by this Act on a Collector or Sub-Collector may be exercised and performed by such officers or persons as Government shall from time to time appoint in this behalf.

Service of notice.

19. Service of any notice under this Act shall be made by delivering or tendering a copy thereof under the signature of the Sub-Collector.

Whenever it may be practicable, the service of the notice shall be on the person therein named.

When such person cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the serving officer shall affix the copy of the notice on the outer door of the house in which the person therein named ordinarily dwells or carries on business.

Government may prescrib forms for notices and make rules.

20. Government may, from time to time,

(*a*) prescribe forms for the notices and lists hereinbefore mentioned;

(*b*) make rules consistent with this Act for the guidance of officers in matters connected with its enforcement.

SCHEDULE.

Persons in class I shall be assessed at an annual duty not exceeding	Rs.	6	0	0
Persons in class II at an annual duty not exceeding ...	Rs.	3	0	0
Persons in class III at an annual duty not exceeding ...	Rs.	1	8	0

ACT No. I OF 1872.

Received the Governor's assent on the 24th of February, 1872, and the Governor General's assent on the 30th of May, 1872, and published by the Governor on the 13th of June, 1872.

An Act to amend Act XIII of 1856.

Preamble.

WHEREAS it is expedient to amend the law relating to the Bombay City Police Superannuation Fund, and to provide for the granting of pensions to

members of the Bombay city Police-force in cases not provided for by Act XIII of 1856; It is hereby enacted as follows:—

1.—[*Repealed by Act No. XII of 1876.*]

2. For section 17 of the said Act, the following section shall be substituted:—

[See *supra*, p. 76.]

Poundage-fees, &c., to be paid to fund

3. The fees levied and all sums which the Commissioner of Police is entitled to retain under the provisions of section 28 of Act XLVIII of 1860 shall be paid and transferred to the credit of the Bombay City Police Superannuation Fund and be applied as hereinafter provided.

4. For section 18 of the said Act, the following section shall be substituted:—

[See *supra*, p. 76.]

5. For section 19 of the said Act, the following section shall be substituted:—

[See *supra*, p. 77.]

Gratuity to heirs of Police-officers killed in execution of duty.

6. If the death of any member of the said Police-force shall, at any time, be occasioned by any wound or injury received by him in the execution of his duty, it shall be competent to the Local Government to sanction payment from the said Superannuation-fund to the widow, child or children, parent or parents, of the deceased, of such gratuity or allowance as to the Local Government may seem fit.

The word "parent" shall include father and mother, and grandfather and grandmother, and the word "child" shall include son and daughter, and grandson and granddaughter, and step-son and step-daughter.

Provision for payment of pension in special cases

7. It shall be lawful for the Local Government to order that any member of the aforesaid Police-force of a class not entitled to the benefit of the uncovenanted service pension rules, who may be discharged from the force for any reason other than his own misconduct,[a] and who may not otherwise be entitled to a pension or gratuity under this or any other Act, shall receive out of the Police Superannuation-fund, from and after the date of his discharge as aforesaid, such gratuity as the Local Government may think fit, or a monthly pension to be fixed by the Local Government, at a rate in proportion to the length of service in the Police-force of the person so discharged:

Provided that the amount of the pension so granted shall not exceed one-fourth of his monthly salary or authorized official allowances, calculated on an average of his pay and allowances during the five years immediately prior to his discharge:

[a] See Bombay Act No. II of 1879

And provided also that, in the case of a pension being granted under this section, such member of the Police-force as aforesaid shall have actually served in the said force for not less than five years immediately prior to his discharge

Police officers not entitled absolutely to pension or refund of subscription &c nor their heirs to gratuity, &c

8 Nothing hereinbefore contained shall be construed to entitle any member of the said Police-force absolutely to any pension or gratuity, or to prevent him from being dismissed without any pension or gratuity whatever, or to entitle him to any refund of any deduction made from his pay while he shall have been a member of the said force, or absolutely to entitle any child, widow or parent of any deceased member of the said Police-force to any such gratuity or allowance as hereinbefore provided

9 —[*Repealed by Act No XII of 1876.*]

Construction.

10 This Act shall be construed and read as part of Act XIII of 1856.

ACT No II OF 1872

Received the Governor's assent on the 5th of April, 1872, and the Governor General's assent on the 11th of June, 1872, and published by the Governor on the 22nd of June, 1872

An Act to secure the payment to Government of certain additional sums of money by the Corporation of the Justices of the Peace for the city of Bombay.

Preamble.

WHEREAS the Government of India has agreed to advance the Corporation of the Justices of the Peace for the city of Bombay a sum of fifteen lakhs of rupees, in addition to the sum of fifteen lakhs of rupees whereof payment is secured by Act III of 1870 of the Governor of Bombay in Council, and whereas it is necessary to make certain provisions for the repayment of the same, out of the municipal fund of the city of Bombay, in preference to, and with priority over, all incumbrances and claims upon and to such municipal fund other than those created under the provisions of this Act and of the said Act III of 1870, It is enacted as follows —

Period of repayment.

1 The whole of such loan of fifteen lákhs of rupees shall be repaid with interest at the rate of five per cent per annum within twenty years from the first March, 1872.

Mode of repayment

2 To secure the repayment of such loan with interest as aforesaid, the municipal commissioner, on behalf of the Justices of the Peace for the city of Bombay, on the first day of every month after the passing of this Act, until

the whole of such loan be liquidated, shall pay into Her Majesty's treasury or into the account of Her Majesty's treasury in any bank which may now or hereafter be appointed to conduct the business of Her Majesty's treasury of Bombay, the sum of rupees nine thousand eight hundred and forty, out of the municipal fund, and notice of such payment having been made shall be forthwith published by the municipal commissioner in two English daily newspapers and one vernacular daily newspaper published in Bombay, and in the *Bombay Government Gazette*.

Course to be pursued in case of non-payment.

3. If the municipal commissioner shall neglect to make any of the payments specified in this Act at the times mentioned, the Controller of municipal accounts or officer acting in that appointment shall within forty-eight hours report the fact to the chief Secretary to Government or other officer acting in that capacity, who shall have power to direct any Government-officer, not being an officer holding a municipal appointment, to detain in his hands, to the extent of any payment or payments then in arrear, any moneys due to or accruing for the benefit of the Corporation of the Justices of the Peace for the city of Bombay which he may then or thereafter have in his custody or control, and such officer shall be bound to detain the moneys as directed, and to pay the same into Her Majesty's treasury, or into any bank as aforesaid, to the credit of the Secretary of State for India in Council, in preference to, and with priority over, all incumbrances and claims to such moneys other than those created under the provisions of this Act and of the said Act III of 1870.

Account of balances due to Government to be published in January in each year.

4. The municipal commissioner shall, in the month of January in each year, publish in the *Bombay Government Gazette* an account showing the balances due by the Corporation of the Justices of the Peace for the city of Bombay on the thirty-first December preceding on the several accounts in this Act and in the said Act III of 1870 specified.

Saving of rights and remedies of Government.

5. Nothing in this Act shall affect the rights or remedies which the Government of India have or shall have independently of this Act for the recovery of the moneys advanced or to be advanced under this Act or any part thereof.

Municipal commissioner to discharge out of said 15 lákhs certain liabilities.

6. It shall be the duty of the municipal commissioner to discharge out of the sum of fifteen lákhs mentioned in the first section of this Act the following liabilities of the said Justices at the times hereafter specified:

(1). The amount due for principal and interest on account of the sum of two lákhs advanced to the said Justices by the Government of Bombay on the third November, 1871.

(2). The amount due for principal and interest in respect of a cash-credit-advance made to the said Justices by the new Bank of Bombay (Limited)

on the security of certain Government promissory notes belonging to the sinking fund created under section 257 of Act II of 1865, for the repayment of moneys borrowed under the provisions of the said Act or of Act IV of 1867.

(3). All sums due for principal and interest to the said sinking fund at the time of the passing of this Act, which sums should have been set apart under the provisions of section 257 of Act II of 1865, but which have not hitherto been so set apart.

The first of the liabilities above enumerated shall be discharged by the municipal commissioner at the time when he shall receive the said sum of fifteen lákhs payable to the said Justices under the provisions of this Act, and the remainder shall be discharged by the said municipal commissioner within one month from the same date.

The municipal commissioner shall report to Government through the Accountant General the due payment and discharge of the aforesaid liabilities at times above specified, and in any case of any default being made in discharging any of the above liabilities as aforesaid, the chief Secretary to Government or other officer acting in that capacity is hereby empowered to, and shall, put in force, for the purpose of securing the due discharge of the said liabilities, the provisions of section 3 of this Act.

Loan for improvement of water-supply.

7. Whereas the Government of India has signified its willingness to grant a further loan of four lákhs of rupees to the Corporation of the Justices of the Peace for the city of Bombay for the purpose of carrying out certain works for the improvement of the water-supply of the city of Bombay by the construction of a reservoir at Tulsí, it is hereby enacted that, in case such loan of four lákhs of rupees shall be granted, the same shall be secured and repayable in the same manner and within the same period, and shall be subject to the same rights and remedies, as are hereinbefore provided with regard to the said loan of fifteen lákhs of rupees.

Repayment of loan.

8. It shall be lawful for the Governor in Council, before such loan of four lákhs of rupees or any part thereof is advanced, to fix the amount of the monthly instalments by which such loan or such part thereof as may be advanced shall be liquidated, and the times at which the same shall commence to be paid, and it shall be the duty of the municipal commissioner to pay out of the municipal fund the instalments so fixed, and at the respective times appointed for payment of the same.

Loan to be borrowed under Act XXIV of 1871.

9. Any moneys which may hereafter be borrowed by the said Justices other than the loans made or that may be made under the provisions of this Act, shall be borrowed under, and subject to, the provisions and conditions of "The Local Public Works Loan Act, 1871."

THE BOMBAY MUNICIPAL ACT OF 1872.

TABLE OF CONTENTS.

PREAMBLE.

I.—PRELIMINARY.

SECTIONS.

1. [*Repealed.*]
2. Interpretation-clause.
3. Act not to affect nuisances at common law.
   Proviso.

II.—MUNICIPAL CONSTITUTION.

4. Constitution of Corporation.
5. Who may be elected or appointed members.
6. Fresh general elections and appointments.
7. General elections and appointments when to take place.
8. Disqualifications of members.
   Election or appointment of successors.
9. Names of nominees to be left with Municipal Commissioner and published by him.
9A. Qualifications of voters.
9B. Votes recorded and elections conducted according to rules to be prescribed by Government.
9C. Determination of validity of elections.
9D. Preparation and publication of list of persons eligible and qualified to vote.
   Revision of list.
10. Chairman of Corporation: his appointment and duties.
11. Time for holding quarterly meetings.
12. Special general meetings.
12A. Notice of motions to be brought forward by members.
13. Business to be transacted at meetings.
14. Quorum.
15. Minutes of proceedings to be kept, and to be open for inspection.
16. Declaration of chairman that proposition has been carried sufficient, unless poll demanded.
17. Poll how taken.
18. Rules for conduct of business at meetings.
19. Town Council.
20. Chairman and members of Town Council how and when appointed.
21. Term of office of members. Vacancies how filled up.
22. Common seal of Corporation where kept and how affixed to instruments.
23. Appointment and powers of sub-committees of Town Council.
24. Meetings of Town Council: payment of members.
25. Chairman to preside at meetings of Town Council.
26. Appointment and remuneration of secretary to Town Council.
27. Appointment and dismissal of clerks and servants of Town Council.

SECTIONS.

28. Where municipal fund to be lodged.
29. How fund to be drawn against.
30. Accounts to be audited by Town Council.
31. Audit and examination of accounts.
Remuneration of auditors.
32. Information and report to be supplied by auditors.
33. Reports to be submitted by Municipal Commissioner.
34. Estimate of expenditure to be submitted by Municipal Commissioner to Town Council.
35. Budget containing estimate of expenditure, and proposals for amount of rates and taxes, to be laid before Corporation by chairman of Town Council.
36. Corporation may pass estimate, or refer it back for consideration, or reject items.
37. [*Repealed.*]
38. Town Council may reduce amount of expenditure according to Act.
39. Special grants by Corporation.
40. Procedure of Government upon complaint of default in carrying out Act.
41. Recovery of expenses incurred by Government.

III.—MUNICIPAL EXECUTIVE OFFICERS.

42. Appointment of Commissioner as executive officer for purposes of Act.
43. Designation and remuneration of Commissioner.
44. Appointment and remuneration of executive engineer.
45. Appointment and remuneration of executive officer of health.
46. Appointments of health-officer and engineer when to be made.
Procedure if Government refuse to confirm appointment.
47. Relations of health-officer to Commissioner.
48. [*Repealed.*]
49. Appointment and remuneration of Assistant Commissioners, subordinate officers and servants.
Proviso.
50. Officers under present Municipal Commissioner to hold office until removed by Commissioner or Town Council.
51. Municipal officers and servants held to be public servants within meaning of Penal Code.
52. Obstruction of Commissioner or servants.
53 Officers not to be interested in contracts, &c., made with Corporation.
Penalty for member of Town Council or officer of Corporation being so interested.
Exceptions.
54. Commissioner may contract for works provided for in budget. Mode of making contracts.
55. Contracts to be reported to Town Council: contracts for works or materials to be in writing.
56. Mode of entering into contracts of Rs. 2,000 or more.
57. Compounding of penalties.
58. Town Council to grant leave of absence, &c.
Sanction of Government required in certain cases.
Acting appointments.

SECTIONS.

59. Allowances during absence on leave.
60. Police Commissioner to co-operate with Municipal Commissioner.
61. Power of Police to arrest offenders.
Proviso.

IV.—MUNICIPAL PROPERTY AND FUND.

62. Property of Justices vested in Corporation.
63. [*Repealed.*]
64. Vehar lake and water-works vested in Corporation.
Proviso.
65. Municipal fund.
66. Levy of rates, taxes, tolls and duties.
67. Rates and taxes when to be fixed.
68. Assessment, &c., not impeachable for want of form.

Property-rates.

69. Property-rates leviable.
Consolidated rate.
Water-rate.
Halálkhor-rate.
Proviso.
69A. Property-rates how leviable.
70. Annual value how ascertained.
70A. Property-rates from whom leviable.
Person liable to property-rates entitled to credit in account with person to whom he himself pays rent.
Credit to be allowed by superior holders for proportion of property-rates on rents receiveable.
Saving of express contracts.
71. Valuation to be made and entered in book.
72. [*Repealed.*]
73. Person liable to rates how designated if his name not ascertainable.
Liability of occupier if he fails to give information.
74. Power to require returns for valuation.
Power to enter houses, &c.
Penalties for not furnishing returns, &c.
75. [*Repealed.*]
76. Provisions for buildings let in flats or sets of apartments.
Provisions as to lodgings or godowns.
77. Buildings and lands exempt.
78. Public notice of valuation to be given.
79. Notice of time of revising assessment.
80. After revision, assessment-book to be authenticated by Commissioner.
Rate assessed deemed rate for whole year.
81. Alteration or amendment of assessment.
82. Refund on account of vacancies.
Claims for refund to be made within thirty days.
Continued vacancy.
83. Notice to be given of houses newly built or re-built.
84. Notice to be given of demolition or removal of house.

SECTIONS.

85. New assessment-book need not be prepared yearly.
Proviso.
86. In certain cases halálkhor-rate may be fixed with reference to duties performed.
87, 88, 89. [*Repealed.*]
90. Commissioner may supply water by measurement and contract.
91. Penalty for fraudulent disposal of water.
92. Commissioner to keep accounts. Statement of accounts to be published.
93. Disposal of surplus-funds. When water-rates may be reduced.
94. Public wells or tanks free from rate.
95. Water and halálkhor-rates recoverable from occupiers.
Saving of express contracts.

Supplementary Tax.

96. Supplementary tax.
97 to 103. [*Repealed.*]

Taxes on Carriages, Horses, Ponies and Mules.

104. Tax on carriages, &c.
Proviso.
105. Possession for part of quarter involves liability for whole.
Proviso.
106. Carriages and other vehicles under repair.
107. Commissioner may compound with livery-stable-keepers and others.
108. List of persons liable to tax to be entered in book.
109. Returns may be required for purpose of making list.
110. Notice to be given to Commissioner by owner under certain circumstances.
111. Power to inspect stables, &c., and to summon persons liable to payment of tax.
112. Penalty for disobeying summons, or hindering Commissioner.

Toll on labour-carts.

113. Toll on labour-carts from island of Salsette.

Town-duties.

114. Levy of town-duties.
Proviso.
115. Power to Corporation to impose town-duties.
116. Town-duties how levied and collected.
117. Powers of officers appointed to collect town-duties.
Punishment of offenders.
118. Moneys where to be paid.
119. Commissioner to keep accounts of town-duties.
120. Refund.
121. Tables of rates to be hung up at certain places.

Tax on Fire Insurance Companies.

122. Payments by Insurance Companies.
123. Return of amount insured in city to be made on first day of September in each year.
124. Penalty on Insurance Companies not making return.

Collection of Rates and Taxes.

SECTIONS.

125. Bill to be presented.
126. Notice of demand.
Distress.
127. Appeals to Chief Presidency Magistrate.
128. Time of appeal.
129. Assessment and adjudication of appeal when final.
130. Inventory.
Notice of distress.
131. Sale.
Fees.
132. Goods of defaulter distrainable wherever found.
133 Person liable to rate, leaving city during quarter, may be made at once to pay such rate up to date.
134. Property-rates recoverable from occupier, although he be not liable for them, under certain circumstances.
135. Commissioner may sue instead, or on failure, of distress.

V.—APPLICATION OF MUNICIPAL PROPERTY AND FUNDS.

136. Application of municipal property and funds.
137. Objects to which municipal property and funds applicable.

Public Safety, Public Health, Public Instruction, Public Convenience.

Contributions towards public festivities, &c.
Payment of pensions, &c.
138. Funds to be provided by Corporation for certain purposes.
Annual expenses of Police, &c., to be determined by Government.
139. Fund where to be lodged and drawn against.
140 Sums expended on Vehar water-works in excess of certain sum to be defrayed from public revenue. Sum due to Government on account of works on first July, 1863, how paid.
Proviso.
141. [*Repealed.*]

VI.—GENERAL CONSERVANCY.

Water-supply.

142. Commissioner to manage and maintain works.
143. Access to land and conduits, &c.
Proviso.
144. Building, &c., within limits of watershed prohibited.
145. Inspection of works by Government-officers.
146. Application of preceding four sections to any water-works by Government notification.
147. Construction and maintenance of works for supply of water.
148. Construction of aqueducts, &c.
149. When connections from Corporation water-works may be made.
When making of connection may be compulsory.
150. Injuring water-works or diverting or wasting water.
151. Commissioner may set apart bathing-places, &c.

SECTIONS.

152. Water fouled by offensive trades.
153. Fouling water by bathing, washing, &c.

Construction, Paving and Repairing of Streets.

154. Power to make and improve streets.
155. Power to sell streets.
156. Power to agree for purchase of land for improving street.
157. Power to take land adjoining new streets for building purposes.
Compensation for damage to adjoining land.
158. Private persons laying out new streets.
Proviso.
159. Paving, &c., of private streets.
160. Certain streets deemed public and repaired by Commissioner.
Proviso.
161. Width of new public street.

Building Regulations.

162. House or building may be set forward for improving line of public street.
163. Projecting houses, when taken down, to be set back.
Proviso.
164. Roofs and external walls not to be of combustible materials.
165. Notice to Commissioner of new buildings, &c.
166. Procedure on receipt of notice.
167. Houses built, &c., without notice, or contrary to provisions of Act, may be altered by Commissioner.
Liability to penalty.
168. Parties may proceed with buildings on failure of Commissioner to signify disapproval.
169. Gas and water-pipes how laid.
170. Situation of gas and water-pipes to be altered at expense of Corporation.
Proviso.
171. If owner, &c., neglect to alter, Commissioner may cause same to be done.
172. Power of Commissioner as to existing huts.
Proviso.
173. Erection of new huts to be under control of Commissioner.
174. Commissioner may make drains from houses not properly drained.
175. Cesspools.
176. Ventilation of drains, sewers and cesspools.
177. Ventilation.
178. Penalty for altering or injuring pipes for ventilation.
179. Drains and sewers in streets to be covered with traps, &c.
180. Commissioner may cause additional privies to be provided for houses.
181. Neglecting to enclose private privy.
Proviso.
182. Penalty for making or altering drains, &c., contrary to orders of Commissioner.
183. Latrines, &c., for labourers.

SECTIONS.

184. Privies, &c., for markets.
185. Drains, privies, &c., under control of Commissioner and to be kept in good order by owners.
186. Inspection of drains and privies.
187. Commissioner to make public sewers.
188. Commissioner to repair and alter, and may discontinue sewers.
Proviso.
Drains, &c., constructed for private use to be maintained by owner.
Powers of Commissioner in case of owner's default.
189. Cleansing and emptying sewers.
190. Penalty for making unauthorized drains into or from public sewers.
191. Buildings, &c., not to be erected over sewers, &c., without consent of Commissioner.
192. Ground-floor-doors opening on public street not to be hung to open outwards.
Exception.
193. Ground-floor-doors hung prior to commencement of Act so as to open outwards, to be altered.
194. Troughs and pipes to be fixed to houses.
195. Removal of existing projections.
196. Projections from houses not allowed.
Proviso.
197. Power to allow projecting verandahs, &c., in streets not less than twenty-four feet wide.
198. Power of Commissioner to erect or affix to buildings, brackets, &c.
199. Names of streets. Numbers of houses.
200. Houses in ruinous and dangerous state.
201. Sale of materials of ruinous houses.
202. Power to secure or enclose deserted houses.
203. Taking up pavements.
204. Commissioner breaking up street to restore it with all convenient speed.
205. Commissioner in executing works to provide roads, &c., where existing ones injured.
And may require persons who injure them to make new ones.
206. Power to trim hedges and trees.
207. Fallen trees, shrubs, &c.
208. Future obstructions on streets or roads.
Proviso.
Proviso.
Proviso.
209. Hoards to be set up during repairs.
210. Bars to be erected across streets during repairs, and lights placed at night.
211. Penalty for not fencing and lighting deposits of building-materials or excavations.
212. Dangerous places near streets to be repaired or enclosed.
Proviso.

Extinction of Fires.

212A. Powers of chief officer of fire-brigade at a fire.

SECTIONS.

212B. Police and municipal officers to aid fire-brigade.
212C. Damages done by fire-brigade deemed damage by fire.

General sanitary Regulations.

213. Dust-boxes in streets.
214. Places for deposit of filth.
215. Rubbish, &c., collected to be property of Corporation.
216. Removal of night-soil.
217. Throwing rubbish, &c., into sewers, streets, &c.
218. Penalty for nuisance on house or land.
219. Removal of dead animals.
220. Filthy houses, &c.
Proviso.
221. Power to enter and cleanse houses and buildings.
222. Abatement of overcrowding in dwelling-houses.
Proviso.
223. Power to fill up unwholesome tanks on private premises.
224. Power to drain off and cleanse stagnant pools in open places.

Regulation of certain Trades.

225. Offensive and dangerous trades.
226. Certain stables, &c., to be licensed.
227. Timber, firewood and hay-depôts to be licensed.
228. Power of Commissioner to inspect trades and places.
229. Furnaces used for trade to consume own smoke as far as practicable.
Proviso.

Slaughter-houses.

230. Commissioner to provide places for slaughter-houses.
231. Slaughter-houses to be licensed.
232. Penalty for using slaughter-houses during suspension or revocation of license.
233. New slaughter-houses, &c., beyond limits of city.
Bye-laws.
Proviso.
234 When search may be made without notice.
235. Licensing of butchers.
236. Penalty for feeding animal with night-soil.

Public and private Markets, &c.

237. What to be deemed public market.
238. Power to close markets, and sell grounds and premises.
239. Commissioner may let stalls.
240. Selling articles in markets without Commissioner's permission.
241. Private markets not allowed.
242. Markets, slaughter-houses, &c., to be properly drained.
243. Markets, &c., to be properly maintained.
244. Commissioner may enter and inspect shops, &c., and seize unwholesome articles exposed for sale.

Special sanitary Regulations.

SECTIONS.

245 Special sanitary exigencies.

Prevention of infectious Diseases.

245A. Information to be given of existence of dangerous infectious disease.
245B. Municipal Commissioner's power of entry for preventing spread of disease.
245C. Provision of carriages for conveyance of patients.
245D. Commissioner may order removal of patients to hospital.
245E. Disinfection of houses, &c.
245F. Place for disinfection may be provided ;
also places for washing.
Infected articles may be destroyed.
245G. Penalty for exposure of infected persons or things.
245H. Penalty if patient enters public conveyance without notifying that he is suffering from infectious disease.
245I. Penalty for letting infected rooms, &c.

Places for the Disposal of the Dead.

246. Places for disposal of the dead to be registered.
247. Sanction of Commissioner and Town Council to open new places for disposal of dead.
248. Burials within places of worship ; exhumations.
249. Government to issue declaration prohibiting improper burial-places.
Proviso.
249A. Prohibited burial-places may be re-opened.
250. Registration at place for disposal of dead.
251. Penalty for illegal disposal of dead.
For burial at insufficient depth.
Distance between graves.
Position of graves.
Re-opening graves.
Cremation.
Incomplete cremation.
Corpses not decently covered.
Leaving corpse on highway.
Improper removal of corpse after dissection.
252. New burial-grounds, &c., beyond limits of city.
Bye-laws.
Proviso.

Registration of Births and Deaths.

253. Commissioner to keep register, and appoint registrars, of births and deaths.
254. Registrar to live in district ; list of registrars to be published, &c.
255. Commissioner to have register-books prepared and numbered.
256. Registrar to make inquiries as to births.
257. Information of birth to be given within one week.
258. Notice of birth to be given to registrar.
259. Information of death to be given at place of funeral.

Taking of a Census.

SECTIONS.

260. Enumeration of inhabitants.
261. Commissioner to superintend enumeration.
262. Delivery of schedules and returns.
263. Occupier of house, &c., to furnish required information.
Proviso.
264. Occupier to amend returns if found defective.
265. Military and naval officers and others to act as enumerators.
266. Returns of houseless persons.

Power to make Bye-laws.

267. Commissioner may make bye-laws with sanction of Town Council.
268. Commissioner and Town Council may impose penalties for breach of bye-laws.
269. Bye-laws to be confirmed by Government and Corporation.
270. Notice to be given of application for confirmation of bye-laws.
271. Copy of proposed bye-laws to be kept for inspection at Commissioner's office one month before application for confirmation.
272. Bye-laws to be published after confirmation, and to be open to inspection without fee.
273. Bye-laws binding on all persons, and to be taken judicial notice of.
274. Penalty for injuring copies of bye-laws kept for public inspection.
275. Government may repeal bye-laws.
Repeal to be published.
276. Existing bye-laws to continue in force till repealed.

VII.—GENERAL PROVISIONS FOR CARRYING OUT THE PURPOSES OF THE ACT.

277. Fees for licenses.
278. Service of notice on owners and occupiers of buildings and lands.
Proviso.
279. Notice may be printed.
Service of notices.
280. Commissioner, in default of owner or occupier, may execute works and recover expenses.
281. Power to levy charges on occupier, who may deduct same from rent.
282. Occupiers not liable for more than amount of rent due.
Proviso.
283. Occupier, in default of owner, may execute works and deduct expenses from rent.
284. Proceedings if occupier opposes execution of Act.
285. Power to enter upon lands for purposes of Act.
Proviso.
286. Notice to be given before entry of houses to enable females to retire.
287. Writ or process not to issue against Commissioner or his officers till after one month's notice of cause of action.
288. Commissioner may make compensation out of municipal fund.
289. Compensation, damages and costs to be determined by Chief Presidency Magistrate.
290. Method of proceeding before Magistrate.

SECTIONS.

291. Recovery of damages by distress.
Proviso.
292. Suit on failure to realize by distress.
293. Land may be acquired under law for acquisition of land for public purposes.
294. Power to sell lands or buildings.
295. Commissioner may direct prosecution.
Proviso.
296. No person liable to penalty unless complaint made within three months after offence.
297. Damage to municipal property to be made good in addition to penalty.
298. Recovery of expenses on account of improvement to private property.
299. Recovery of fines and penalties.
Proviso.
300. Fines and penalties to be credited to municipal fund.
301. Penalty for failing to answer summons.
302. Distress not unlawful for want of form.
303. Sinking funds for payment of debts.
304. Definition of health-officer.
305. Saving of prerogatives of Crown.
306. [*Repealed.*]
307. [*Repealed.*]
308. Short title.
Schedules.

ACT No. III OF 1872.

Received the Governor's assent on the 15th of November, 1872, and the Governor General's assent on the 15th of February, 1873, and published by the Governor on the 22nd of February, 1873.

An Act to provide for the management of the municipal affairs of the city of Bombay, and to make better provision for the conservancy and improvement of the city, and for the levying of rates, taxes and other income therein.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to the management of the municipal affairs of the city of Bombay, and to make better provision for the conservancy and improvement of the city, and for the levying of rates, taxes and other income therein; It is enacted as follows:—

1.—[*Repealed by Act No. XII of 1876.*]

Interpretation-clause. 2. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction:—

"The Corporation." the expression "The Corporation" shall mean the municipal corporation of the city of Bombay:

the word "Magistrate" shall include all persons exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure in force for the time being, as well as any Presidency Magistrate: "Magistrate"

the word "street" shall mean any way, highway, road, street, square, alley, passage, gully or lane, whether a thoroughfare or not, over which the public shall have a right of passage or access, or shall have, during a period of twenty years, passed or had access, without interruption, and also the roadway and footway over any bridge or causeway within the city: "Street."

the words "public street" shall mean any street which shall have been declared to be, and shall have become, a public street in manner hereinafter provided, or which shall have been heretofore levelled, paved, metalled, channelled, sewered or repaired, by the Commissioner from municipal funds, as if the same had in manner aforesaid been declared to be a public street: "Public street"

the expression "near any street" shall designate any place within two hundred yards of any street: "Near any street"

the word "land" shall include all houses, sites of houses, outhouses, stables, privies, buildings held upon any tenure, and of whatever description, and also all drains, sewers and cesspools, all wells, tanks, pools, quarry-holes, ditches, ponds, reservoirs, cisterns and gullies: "Land."

the word "house" shall include all messuages, outhouses, stables, buildings and structures, whether of wood, mud, masonry or metal, all sheds and huts, of whatever description, and all land attached to or for the use of the same: "House"

the word "place" shall denote either "house" or "land:" "Place."

the words "place for the disposal of the dead" shall include all places whatsoever where corpses have been, are, or are proposed to be, buried, burned, exposed, or otherwise disposed of in any way: "Place for the disposal of the dead."

the word "nuisance" under this Act shall include any act, omission or thing occasioning, or likely to occasion, injury, annoyance, offence, harm, danger or damage to the senses of sight, smell or hearing, as well as any act, omission or thing which is, or may be, dangerous to life or injurious to health or property: What are to be deemed nuisances.

the word "animal" shall denote all horned cattle, elephants, camels, horses, ponies, asses, mules, deer, sheep, goats and swine: "Animal."

the word "vessel" shall denote anything made for the conveyance by water of human beings, animals or property: "Vessel."

the word "owner" shall mean the person for the time being receiving the rents of the land or premises in connection with which the word is used, whether such person shall receive such rents for himself, or by or for an agent or trustee, and shall also include any such agent or trustee. "Owner."

The said word shall also mean

any agent or trustee receiving the rents of, or entrusted with or concerned for, land devoted either wholly or in part to religious or charitable purposes, and

any receiver, manager or sequestrator appointed by the High Court of Judicature at Bombay, or other Court of competent jurisdiction, or under any order thereof, and

any person who would be entitled to receive the rents of such land if the same were let to a tenant:

Proviso. Provided that no person receiving the rent of land or premises as agent or trustee for another person shall be liable to do anything by this Act required to be done by the owner of such land or premises, unless he have sufficient funds of or due to the owner to pay for the same;

nor shall he be subject to any penalty for omitting to do such act if he can prove that the default was occasioned by reason of his not having funds of or due to the owner sufficient to defray the expense of doing the act required:

"Parents or guardians" the words "parents or guardians" shall include all relations or other persons to whom the care, nurture or custody of any child falls by natural right, or has been assigned by any law or recognized usage, and these words shall also include all who have accepted or assumed directly the care, nurture or custody of any child.

Act not to affect nuisances at common law. 3. Nothing in this Act shall be construed to render lawful any act or omission on the part of any person which is, or but for this Act would be, deemed to be a nuisance at common law, nor to exempt any person guilty of nuisance at common law from prosecution or action in respect thereof:

Proviso. Provided that if any person convicted of an offence under this Act shall have paid the whole amount adjudged to be paid under such conviction, and the costs thereof in every such case, he shall be released from all further criminal responsibility for the same offence.

II.—Municipal Constitution.

Constitution of Corporation. 4. Except during the intervals between the death, resignation or disqualification of any member, and the election or appointment of a successor, the Corporation shall consist of sixty-four members, and shall, by the name of "The Municipal Corporation of the City of Bombay," be a body corporate and have perpetual succession and a common seal, and have power to hold land, and by such name shall sue and be sued.

Of the said sixty-four members, thirty-two shall be elected, as hereinafter provided, at a rate-payers' election, and sixteen at a Justices' election, and the remaining sixteen shall be appointed by Government.

5. Subject to the specific disqualifications set forth in section 8, the following persons shall, if they reside in the city of Bombay, be qualified to be elected or appointed members of the Corporation (namely) :— Who may be elected or appointed members.

(*a*) rate-payers who have attained the age of twenty-five years, and who have been assessed, according to the provisions hereinafter contained, to the consolidated rate, or to the tax leviable under section 104, on carriages, carts, hackeries, horses, ponies and mules, other than carriages, carts, hackeries, ponies and mules plying for hire or kept for the purpose of being let for hire, or to both, for the half-year commencing on the first January and ending on thirtieth June last preceding the date of the election or appointment, at a rate of not less, in the aggregate, than thirty rupees per annum ;

(*b*) Fellows of the University of Bombay ;

(*c*) Justices of the Peace.

A person who has already been elected or appointed a member of the Corporation on one or more occasions, shall, if otherwise duly qualified, be eligible at any time for re-election or re-appointment.

6. There shall be fresh general elections and a fresh general appointment by Government of members of the Corporation every two years. Fresh general elections and appointments.

The first general elections and appointment shall be made to have effect from the first January, 1879, and the said elections and appointment, and all subsequent general elections and appointments of members shall be for a term of two years, beginning on the first January in one year, and terminating on the thirty-first December in the next following year, both days inclusive.

At the expiration of such term the persons who are then members of the Corporation shall cease to be members thereof, unless they have been re-elected or re-appointed members for the next ensuing term.

7. The rate-payers' general election shall be fixed by Government, by notification in the *Bombay Government Gazette*, to take place on some convenient day in the last four months next preceding the first January from which such election is to take effect. General elections and appointments when to take place.

The Justices' general election shall take place at a general meeting of the Justices of the Peace resident in the city of Bombay to be convened by the clerk of the Justices of the Peace on some day, of which due notice shall be given by advertisement in one or more of the local newspapers, not less than ten nor more than fifteen days after the rate-payers' general election shall have taken place.

And the general appointment by Government of the remaining sixteen members shall be notified not later than seven days before the first January, from which their appointment is to take effect.

8. Notwithstanding anything contained in section 5, no person shall be Disqualifica-

tions of members.

qualified to be elected or appointed, or to be a member of the Corporation, during such time as he

(*a*) is an uncertificated bankrupt or insolvent, or

(*b*) is a municipal executive officer, or a clerk or servant of the Corporation, or

(*c*) is the Chief Presidency Magistrate, or acting in that capacity, or

(*d*) has directly or indirectly any share or interest in any contract or employment with, by, or on behalf of, the Corporation,

and any member of the Corporation who during the term for which he has been elected or appointed,

(*e*) becomes disqualified for any of the aforesaid reasons, or

(*f*) is absent for not less than three consecutive months from Bombay, or

(*g*) is sentenced to imprisonment,

shall cease to be a member of the said Corporation.

Election or appointment of successors.

In the event of the death, resignation or disqualification as aforesaid of any member of the said Corporation, a successor shall be forthwith appointed by Government if the member whom he is to succeed was so appointed, and if the said member was elected at a rate-payers' election or at a Justices' election, the Government, by notification in the *Bombay Government Gazette* in the former case, and the clerk of the Justices of the Peace, by advertisement in one or more local newspapers in the latter case, shall fix a convenient day for the election of a successor at a rate-payers' or Justices' election, as the case may be.

Every such appointment or election shall be for the remainder of the term for which the member whose place is to be filled was appointed or elected, and at the expiration of such term the person so appointed or elected shall cease to be a member of the Corporation, unless he has been re-elected or re-appointed a member for the next ensuing term of two years.

Names of nominees to be left with Municipal Commissioner and published by him.

9. No vote shall be received at any election of members of the Corporation for any person whose name is not entered in the list then last published under section 9D as qualified to be elected or appointed a member, and who has not been nominated by one person entitled to vote at the said election, and whose nomination has not been seconded by another such person, nor unless such nomination is made in writing, signed by the proposer and seconder, and left at the office of the Municipal Commissioner at least seven days before the date fixed for the election.

The Municipal Commissioner shall publish a list of the names of the persons in respect of whom such nominations have been duly made, together with the names of the respective proposers and seconders at least three days before the date fixed for the election, in the *Bombay Government Gazette* and in such of the local daily newspapers as he shall deem fit.

Qualifications of voters.

9A. The following persons shall, if they reside in the city of Bombay, be qualified to vote at any rate-payers' election (namely):—

(*a*) rate-payers who have attained the age of twenty-one years, and who have been assessed, according to the provisions hereinafter contained, to the consolidated rate or to the tax leviable under section 104, on carriages, carts, hackeries, horses, ponies and mules, other than carriages, carts, hackeries, horses, ponies and mules plying for hire or kept for the purpose of being let for hire, or to both, for the half-year commencing on the first January and ending on the thirtieth June last preceding the date of the election, at a rate of not less, in the aggregate, than thirty rupees per annum;

(*b*) Fellows of the University of Bombay.

At any Justices' election every Justice of the Peace resident in the city of Bombay shall be entitled to vote.

Votes recorded and elections conducted according to rules to be prescribed by Government.

9B. Votes at any rate-payers' or Justices' election, or at any election by the Corporation, as hereinafter provided, of one or more members of the Town Council, shall be recorded, and the said elections shall be held and the results thereof shall be declared in accordance with such rules as may from time to time be framed by Government in this behalf, the said rules not being inconsistent with this Act:

Provided that no vote shall be received at any rate-payers' election unless the name of the person tendering it has been duly entered in the list then last published under section 9D.

Determination of validity of elections.

9C. If the validity of any election is brought in question by any person qualified to be elected or to vote thereat, such person may at any time within eight days after the election apply to the Chief Presidency Magistrate.

The said Magistrate may, after such inquiry as he deems necessary, pass an order for confirming or amending the declared result of the election, or for setting such election aside.

The said Magistrate's order shall be conclusive.

If he sets aside an election a date shall forthwith be fixed and the necessary steps taken for holding a fresh one by the same authority by whom the date for the election so set aside was fixed.

Preparation and publication of list of persons eligible and qualified to vote.

9D. The Municipal Commissioner shall during the first half of each year, commencing on the first January and ending on the thirtieth June, prepare a list of persons qualified to be elected or appointed members of the Corporation, and of persons qualified to vote at rate-payers' elections.

The list so prepared shall be published by affixing a printed copy thereof in some conspicuous place in or near the Commissioner's office, and the Commissioner shall give notice of such publication in, at least, one English, one Maráthí, and one Guzaráthí local newspaper on or before the first July;

and the said list shall be open to public inspection at all reasonable times of the day for thirty days after the publication of such notice, and printed copies thereof shall be kept at the municipal office for sale to the public at such reasonable price as the Commissioner may determine.

Revision of list.

The Commissioner may, on application being made to him by any person qualified to be elected or appointed a member of the Corporation, or to vote at a rate-payers' election, at any time within thirty days after the publication of the notice aforesaid, correct any erroneous entry in the said list or insert any such applicant's name therein when the same has been erroneously omitted therefrom.

In the event of the Commissioner's refusing any such application, the applicant may, at any time within eight days after such refusal, apply to the Chief Presidency Magistrate, and the said Magistrate may, after such inquiry as he deems necessary, make such order for correcting the list or otherwise as shall seem to him fit.

The said Magistrate's order shall be conclusive and shall be forthwith obeyed by the Municipal Commissioner.

Chairman of Corporation: his appointment and duties.

10. At the first quarterly meeting of the members of the Corporation in each year, they shall proceed to elect a chairman, who shall hold office for a year, and shall be eligible for re-election.

The chairman shall preside over all the meetings of the Corporation, and all questions which may come before any meeting of the Corporation for decision shall be decided by a majority of the members of the Corporation present and voting at such meeting, and in all cases of equality of votes the chairman shall have a second or casting vote.

In case of the absence of the chairman from any meeting, the members present shall choose one of their number to preside, who shall for that meeting have all the powers of the chairman elected by the Corporation.

In case of the death, resignation or disqualification of the chairman elected by the Corporation, it shall be lawful for the Town Council to convene a meeting of the Corporation for the purpose of electing a chairman for the residue of the term for which the chairman so dead, resigned or disqualified was originally elected.

Time for holding quarterly meetings.

11. There shall be four quarterly meetings of the Corporation in every year, at which the members of the Corporation shall meet for the transaction of general business; and it shall be necessary to give notice of the business to be transacted at such meetings.

The first quarterly meeting of every new Corporation shall be held on some day in the month of January to be fixed by the Commissioner.

Subsequent quarterly meetings shall be held on the first Tuesday in the

months of January, April, July and October respectively, or so soon after as shall seem expedient to the chairman of the Corporation.

Notice of the business to be transacted at such meetings shall be published at least seven days before each meeting in the Government Gazette, and in at least one of the daily English newspapers, and in one daily Guzaráthí newspaper, and one Maráthí newspaper published in Bombay.

Special general meetings.

12. The chairman of the Corporation may, whenever he thinks fit, and shall upon a written requisition signed by sixteen members of the Corporation or by four members of the Town Council, call a special general meeting of the Corporation.

Previously to any such meeting being held, at least seven days' clear notice specifying the time and place of such intended meeting, and the purpose for which it is to be held, shall be given by advertisement in the Government Gazette and in at least one of the daily English newspapers, and in one daily Guzaráthí newspaper, and in one Maráthí newspaper published in Bombay.

In case of the absence from the city of Bombay of the chairman appointed by the Corporation, the power of calling meetings of the Corporation shall be vested in the Town Council.

Notice of motions to be brought forward by members.

12A. Any member of the Corporation who desires to bring forward at any quarterly or special general meeting any business or to make any substantive motion not already named in the notice issued under either of the two last preceding sections, shall give notice of the same in writing to the clerk of the Corporation at least three days before the day fixed for the meeting, and a supplementary announcement of the business or motions of which notice has been so given shall be published by the said clerk in at least one local daily newspaper the day previous to the meeting.

Business to be transacted at meetings.

13. Except at the meeting to be held under the provisions of section 35 of this Act, no business shall be brought before nor shall any substantive motion be made at any meeting other than the business or motions specified in the notices or supplementary announcement published under the three last preceding sections; and no business shall be transacted at any adjourned meeting, other than the business left unfinished at the meeting from which such adjournment took place.

Quorum.

14. No business shall be transacted at any meeting unless a quorum of members be present; that is to say, unless at least twenty members including the chairman be present at a quarterly meeting, and unless at least twenty-five members including the chairman be present at a special general meeting: Provided always, that if at any meeting of the Corporation there shall not be a

See Bombay Act No. IV of 1878.

sufficient number of members present to form a quorum, the chairman of the meeting (whether he be the chairman of the Corporation or not) shall adjourn the meeting to some other day, fixing such convenient time and place for the same[a] as he shall think fit, and the business which would have been brought before the original meeting, had there been a quorum present, shall be brought before and disposed of by the adjourned meeting in the usual manner, whether there be a quorum of members present at such adjourned meeting or not

Minutes of proceedings to be kept and to be open for inspection

15 Minutes of the proceedings of all meetings of the Corporation shall on the day following the meeting be drawn up and fairly entered by the secretary to the Town Council in a book to be kept for that purpose, and shall be signed by the chairman, and the said minutes shall, at all reasonable times, be open at the office of the Corporation to the inspection of any member of the Corporation without charge, and of any other person on payment of a fee of eight annas

Declaration of chairman that proposition has been carried sufficient unless poll demanded

16 At any special general meeting, unless a poll be demanded by at least five members of the Corporation, and at any quarterly meeting, unless a poll be demanded by at least three members of the Corporation, a declaration by the chairman that a proposition has been carried, and an entry to that effect in the book of proceedings of the Corporation, shall be sufficient evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such proposition

Poll how taken

17 If a poll be demanded, as in the last preceding section mentioned, or be taken at any meeting of what kind soever, the votes of the members of the Corporation present shall be taken by the chairman in such manner as shall be provided in the rules to be framed under section 18 of this Act, and the result of such poll as declared by the chairman, shall be deemed to be the resolution of the meeting

Rules for conduct of business at meetings

18 The conduct of business at the meetings of the Corporation shall be regulated by the rules hitherto in force, but the said rules may from time to time be altered by the Corporation, provided that every such alteration shall be reported to Government within seven days after the same has been approved by the Corporation, and that Government shall have power at any time within two months after the said seven days to disallow the same

No such alteration of the rules shall be acted upon until after the expiry of the said period of two months, unless the reply of Government, allowing the alteration, is sooner received, and on receipt by the chairman of the Corporation of notice of the disallowance by Government of any such alteration within the said period, the alteration shall be null and void

[a] See Bombay Act No IV of 1878

Town Council.

19. For the purpose of securing the due administration of the municipal fund, a Town Council shall be appointed consisting of twelve members, of whom one shall be the chairman, to be selected, as hereinafter provided, from the general body of members of the Corporation.

Chairman and members of Town Council how and when appointed.

20. Eight members of the said Town Council shall be elected by the members of each new Corporation at their first quarterly meeting,[a] and four members of the said Town Council shall be nominated by Government within one week after such election. From the twelve members so appointed, Government shall appoint the chairman of the Town Council.

Term of office of members. Vacancies how filled up.

21. The members of the Town Council shall hold office until such time as a new Council is appointed under the provisions of the last preceding section, unless they in the meantime cease to be members of the Corporation otherwise than by reason of the expiration of the term of two years for which they were elected or appointed members of the same; but if otherwise duly qualified, they shall be eligible for re-appointment to the Town Council.[b] And vacancies in the said Town Council or in the office of chairman thereof, occasioned by the death, resignation or disqualification of any member, shall be filled up as they occur by Government or by the said Corporation, according as the member so dead, resigned or disqualified was originally nominated or appointed by Government or elected by the said Corporation.

Common seal of Corporation where kept and how affixed to instruments.

22. The common seal of the said Corporation shall be in the custody of the chairman of the Town Council hereinafter appointed; and shall not be affixed to any instrument on behalf of the said Corporation, except in the presence of three members of the said Town Council, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person who may sign the instrument as a witness, and any instrument or contract in writing which under section 54 of this Act is required to be made under the common seal of the Corporation shall be of no validity unless sealed and signed by three members of the said Town Council as hereinbefore provided.

Appointment and powers of sub-committees of Town Council.

23. The said Town Council shall have power to appoint sub-committees of their body, and to delegate to such sub-committees all or any of the powers vested in the said Town Council under the provisions of this or any other Act. The said Town Council shall also have power to make rules for the regulation of its proceedings and the proceedings of the said sub-committees, provided that such rules shall be of no force or validity unless and until they have received the sanction of Government.

Meetings

24. The Town Council shall meet for the despatch of business once at the

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[a, b] See Bombay Act No. IV of 1878.

of Town Council: payment of members.

least in every week, unless at any time the chairman considers that there is not sufficient business to be transacted to require him to call a meeting. The said meetings shall take place in a room to be provided by the Municipal Commissioner in the municipal office, on such days and at such times as may be appointed by the chairman, and each member of the Town Council, who actually attends, from the beginning to the end thereof, any meeting at which a quorum is present and business is transacted, shall be entitled to receive out of the municipal fund a fee of thirty rupees for each such attendance: Provided always, that if more than one meeting is held in the course of any week, no more than thirty rupees shall be paid to each member of the Town Council for his attendance at all the meetings of the Town Council during that week.

Chairman to preside at meetings of Town Council.

25. The chairman of the Town Council shall preside over all the meetings of that body at which he is present, and all questions which may come before any meeting of the Town Council for decision shall be decided by a majority of the members of the Town Council present and voting at such meeting, and in all cases of equality of votes the chairman shall have a second or casting vote.

In case of the absence of the chairman from any meeting, the members present shall choose one of their number to preside, who shall for that meeting have all the powers of the chairman appointed by Government.

No business shall be transacted at any meeting of the Town Council held under the provisions of the preceding section, unless there shall be at least six members present including the chairman.

Appointment and remuneration of secretary to Town Council.

26. The Town Council shall appoint a secretary, who shall keep a record of all their proceedings and shall perform such other duties as may be assigned to him by the Town Council or are appointed under this Act, and shall have access to all the records of the Corporation.

The said secretary shall receive out of the municipal fund a salary of Rs. 500 monthly, which may be increased by the Town Council with the sanction of the Corporation to Rs. 700 monthly.

He shall also be clerk to the Corporation, but shall not hold any other appointment, and shall devote the whole of his time and attention to the duties of his office.

He shall be removeable from office by the Town Council for misconduct or neglect of, or incapacity to perform, his duty.

Appointment and dismissal of clerks and servants of Town Council

27. The Town Council may from time to time appoint such clerks and servants as they may require, and such clerks and servants shall be paid out of the municipal fund such reasonable allowances as may be sanctioned by the Corporation, and such clerks and servants may be suspended and dismissed by the Town Council, and shall be subject to the same rules as to leave and other-

wise as the clerks and servants appointed by the Municipal Commissioner as hereinafter provided.

Where municipal fund to be lodged.

28. All moneys payable to the Corporation in respect of the municipal fund, and all fines, fees or penalties levied by them or their officers, under this or any other Act, shall be received by the Municipal Commissioner, and by him paid forthwith into the bank which is now or may hereafter be appointed to conduct the business of Her Majesty's treasury in Bombay, to the credit of an account to be styled "the account of the municipal fund of the city of Bombay."

How fund to be drawn against.

29. No payment out of the municipal fund shall be made without the sanction of the Town Council, which shall be given in such manner as the said Council deems fit.

All such payments which are in excess of one hundred rupees each shall be made by cheques to be signed by the Municipal Commissioner and by one member of the Town Council, who shall attend at the office of the Town Council for this purpose twice a week at least, and by the secretary to the Town Council.

Payments which are not in excess of one hundred rupees each may be made by the secretary to the Town Council or such other officer as the Town Council may appoint for this purpose, in cash, cheques for sums not in excess of one thousand rupees each and signed as hereinbefore provided being drawn from time to time to cover such payments.

It shall be lawful for the said bank to pay all cheques against the said fund which are signed as aforesaid, and not otherwise.

Accounts to be audited by Town Council.

30. It shall be the duty of the Town Council to conduct a weekly audit of the municipal receipts and disbursements, and to publish weekly an abstract of such receipts and disbursements for the preceding week, certified by the signature of at least three members of the Town Council. The Town Council shall have access to all the accounts and records of the municipality, and the Municipal Commissioner shall be bound to furnish forthwith any explanation which may be called for as to the receipts and disbursements of the municipal fund.

Audit and examination of accounts.

31. The accounts of the receipts and disbursements of the municipal fund shall be audited and examined, from week to week, by such auditors as shall from time to time be appointed by the Corporation.

Remuneration of auditors

The auditors shall be appointed yearly, and shall be paid out of the municipal fund, in respect of such audit, such reasonable remuneration as may from time to time be fixed by the Corporation, but in no case to exceed five thousand rupees in all; for the purposes of such audit the auditors may, by summons in writing, require the production before them of all books, deeds, contracts, accounts, vouchers and all other documents and papers which they may deem necessary, and may require any municipal executive officer or other officer or

servant of the Corporation, or any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents or papers, to appear before them at any such audit and examination, or adjournment thereof, and may require any person so appearing before them to make and sign a declaration with respect to the same; and if any such person neglect or refuse so to do, or to produce any such books, deeds, contracts, accounts, vouchers, documents or papers, or to make or sign such declaration, he shall be liable, for every neglect or refusal, to a penalty not exceeding one hundred rupees.

Information and report to be supplied by auditors.

32. The auditors appointed by the Corporation shall, whenever required by the Town Council, supply any information that may be desired as to the progress of the audit of the account, and shall, in the month of February, in each year, deliver to the Town Council a report upon the audit of the whole of the said accounts for the previous calendar year.

The said report shall be printed and circulated to the Corporation with the annual statement of accounts to be furnished by the Municipal Commissioner, and reviewed by the Town Council as hereinafter provided.

Reports to be submitted by Municipal Commissioner.

33. The Municipal Commissioner shall, as soon after the first day of January in each year as may be practicable, prepare a detailed report of his administration during the previous year, as well as a detailed statement, showing the nature and amount of receipts and disbursements on account of the municipal fund during that year, and such report and statement shall, after examination and review thereof by the Town Council, be printed and delivered to each member of the Corporation at least eight days before the quarterly meeting to be held in the month of April in each year, and subsequently published for general information.

Estimate of expenditure to be submitted by Municipal Commissioner to Town Council.

34. On or before the first of October in each year, the Municipal Commissioner shall lay before the Town Council an estimate prepared by him of the proposed expenditure of the municipality for the year commencing on the first of January then next succeeding, in such detail and form as the Town Council shall from time to time, by order in that behalf, direct, and the Town Council shall forthwith proceed to consider the said estimate, and shall have power to approve or to reject, or to alter all or any of the items entered therein:

Provided that no alterations are made which are inconsistent with the provisions of this or any other Act for the time being in force for the regulation of the said Corporation.

Budget containing estimate of expenditure, and proposals for amount of rates and taxes, to be laid be-

35. The Town Council, with the assistance of the Municipal Commissioner, shall also every year prepare a budget containing the estimate of expenditure as approved by them, and also an estimate of the municipal income available for the purpose, and proposals as to the amount of rates, taxes and duties necessary to be levied for the purpose of meeting such expenditure, and for

providing at the close of the year a cash-balance of not less than one lákh of rupees, and at a special general meeting of the said Corporation, to be held under this Act on or before the tenth day of November in each year, the chairman of the Town Council shall lay before the Corporation the said budget.

fore Corporation by chairman of Town Council.

The said budget shall be printed and circulated to the members of the said Corporation fourteen days before the holding of the said special general meeting.

36. It shall be in the discretion of the Corporation to pass the said budget or to refer it to the Town Council for further consideration, or finally to reject or modify any items entered in the budget of which they may not approve.

Corporation may pass estimate, or refer it back for consideration, or reject items.

But no proposal involving further expenditure, or the levy or abolition of taxes, shall be submitted to the Corporation without having been first left with the secretary to the Town Council not later than six days before the special general meeting held in accordance with the preceding section.

37.—[*Repealed by Bombay Act No. IV of 1878*].

38. It shall be lawful for the Town Council, in case of necessity during the year, to reduce the amount of expenditure under any head of the estimate in any manner not inconsistent with the provisions of this or any other Act for the time being in force for the regulation of the said Corporation, or to transfer the moneys assigned under one head of expenditure in the estimate to another head:

Town Council may reduce amount of expenditure according to Act.

Provided that the total amount of expenditure sanctioned by the estimate passed by the Corporation shall in no case be exceeded, and that all such alterations shall be reported to the Corporation at the next quarterly or special general meeting.

39. It shall be lawful for the Corporation, on the recommendation of the Town Council, from time to time to add to the budget-grants to meet special requirements, provided that the estimated cash-balance at the end of the year shall not be reduced by such additional grants below one lákh of rupees.

Special grants by Corporation.

40. Upon complaint made to the Governor in Council that the Municipal Corporation, or Town Council or Municipal Commissioner, appointed by and under the provisions of this Act has made default in carrying out and enforcing the provisions of sections 86, 93, 96, 138, 142, 145, 189, 245 and 249 of this Act, the said Governor in Council, if satisfied after due inquiry that the alleged default has been committed, shall make an order intimating a time for the performance of its duty by the authority implicated in the matter of such complaint;

Procedure of Government upon complaint of default in carrying out Act.

and if such duty is not performed within the time limited in the order, the said Governor in Council shall appoint some person to perform the same, and shall by order direct that a reasonable remuneration to the person so appointed, the amount whereof is to be specified in the order, and also the expenses

of performing such duty, together with the cost of the proceedings, shall be paid out of the municipal fund.

Recovery of expenses incurred by Government.

41. When the order last mentioned in the preceding section shall have been made, the Town Council and Municipal Commissioner shall pay to Government out of the municipal fund such sum or sums of money as shall from time to time upon a written requisition by a secretary of Government be directed to be paid in compliance with such order, and on failure to make any of such payments for a period of fourteen days from the date of the delivery of any such requisition to the Municipal Commissioner, the Government may by an order in writing signed by one of its secretaries empower any person from time to time to levy out of the municipal fund in the hands of the bankers of the Corporation the sums mentioned in the said order, and the said bankers shall forthwith pay the sums mentioned in such order, and such order shall be a sufficient discharge to the said bankers for the payment of the sums therein mentioned from all liability to the said Corporation.

III.—Municipal Executive Officers.

Appointment of Commissioner as executive officer for purposes of Act.

42. The entire executive power and responsibility for the purposes of this Act, shall be vested in one Commissioner, who shall be appointed by the Government for a term of three years, and shall be eligible for re-appointment, provided that he shall always be removeable from office by the Government for misconduct, or neglect of, or incapacity to perform, his duty, and shall be removed from office by the Government on the votes of not less than forty members of the Corporation recorded at a special general meeting of the Corporation.

Designation and remuneration of Commissioner.

43. The said Commissioner shall be styled "Municipal Commissioner for the city of Bombay."

He shall receive such allowances out of the municipal fund, to be raised under this Act, as shall from time to time be fixed by the Government:

Provided that these allowances shall not be less than rupees two thousand or more than rupees two thousand five hundred a month.

He shall not be permitted to hold any other appointment or to follow any other occupation, and shall devote his whole time and attention to the duties of his office.

He shall not be eligible to be a member of the Town Council or Corporation, but he shall have the same right of being present at all meetings of the Town Council or Corporation, and of taking part in the discussions thereat as any member of the Town Council or Corporation, but he shall not be at liberty to vote upon or to move any resolution submitted to any such meeting.

Appointment

44. The Corporation shall, subject to the confirmation of Government,

appoint an executive engineer, who shall be in all things under the immediate orders of the Municipal Commissioner. and remuneration of executive engineer.

The said officer shall be appointed for a term of five years, and shall be eligible for re-appointment, provided that he shall always be removeable from office for misconduct or neglect, or incapacity to perform his duty, by a vote of not less than two-thirds of the members present at a special general meeting of the Corporation.

The said officer shall receive such allowances out of the municipal fund as shall from time to time be fixed by the Corporation:

Provided that these allowances shall not be less than twelve or more than fifteen hundred rupees a month.

The said officer shall not hold any other appointment, and shall devote the whole of his time and attention to the duties of his office.[a]

45. The Corporation shall also, subject to the confirmation of Government, appoint a proper person, being a legally qualified medical practitioner, to be called the executive officer of health, who shall be appointed for a term of five years, and shall be eligible for re-appointment: Appointment and remuneration of executive officer of health.

Provided always that he shall be removeable for misconduct, neglect of, or incapacity to perform, his duty, by a vote of not less than two-thirds of the members present at a special general meeting of the Corporation.

The executive officer of health shall afford such advice to the Commissioner for the sanitary improvement of the city as his experience and observation may indicate, and such assistance as may be necessary for carrying out such clauses of this Act as relate to the public health.

The said officer shall be precluded from holding any other appointment or office, and he shall not engage in professional practice, either gratuitously or for gain.

He shall receive from the municipal fund a salary, to be fixed by the Corporation, of not less than twelve or more than fifteen hundred rupees a month.[b]

46. The appointments to the offices of executive engineer and executive officer of health shall be made by the Corporation within thirty days from the date on which any vacancy in the said offices shall occur, and in case of the Government refusing to confirm any appointment made by the Corporation, a new appointment shall be made by the Corporation within fifteen days from the date that such refusal of Government to confirm the appointment shall have been notified to the chairman of the Corporation. Appointments of health-officer and engineer when to be made. Procedure if Government refuse to confirm appointment.

In case of any omission by the Corporation to make these appointments

a, b See Bombay Act No. IV of 1878, sec. 17.

within the time so prescribed, the right to make the said appointments shall devolve upon Government.

Nothing in this section shall prevent the Corporation from making, with the assent of Government, a temporary appointment in place of one for the full term of three years in case it should appear desirable to the Corporation to do so.

Relations of health-officer to Commissioner.

47. The executive officer of health shall act in subordination to the Municipal Commissioner, but in all matters of importance affecting the public health generally the Municipal Commissioner shall consult the executive officer of health, and in the event of the latter officer differing from the Municipal Commissioner as to any order or orders issued, or proposed to be issued, regarding any such matter, he shall submit his views to the Commissioner in writing for the consideration of the Town Council, and the Commissioner shall forthwith lay such representation before the Town Council accordingly, who shall pass such order in the matter as to them may seem fit, which order the Municipal Commissioner shall be bound to obey.

48.—[*Repealed by Act No. XII of 1876.*]

Appointment and remuneration of Assistant Commissioners, subordinate officers and servants.

49. The Commissioner may from time to time appoint such Assistant Commissioners, assessors, collectors of taxes, accountants, overseers, inspectors, clerks and subordinate officers and servants, under whatever designation, as he shall think necessary and proper to assist in the execution of this Act, and may from time to time remove any such persons and appoint others in their place, and all persons appointed under this section shall be subject to such rules as may by the Commissioner from time to time be made by virtue of this Act;

and he may, within the limits of the budget-assignment for the year, pay such allowances to the said persons respectively as the Town Council shall think reasonable, or in case of absence on leave such portion thereof as is hereinafter provided:

Proviso.

Provided that no officer or servant shall be removed from any office the aggregate monthly salary of which exceeds three hundred rupees without the sanction of the Town Council, and that no new office the aggregate monthly salary of which exceeds three hundred rupees shall be created without the sanction of the Corporation.

Officers under present Municipal Commissioner to hold office until removed by Commissioner or Town Council.

50. Every Assistant Commissioner, assessor, collector of taxes, accountant, overseer, inspector and clerk, and other officer appointed by or acting under the authority of the Municipal Commissioner under Act II of 1865, and not acting contrary to the provisions of this Act, shall hold and enjoy his office and employment, together with the salary or emolument thereunto annexed, until he shall be removed therefrom by the Commissioner or by the Town Council as hereinbefore provided.

Every such officer shall have the like power and authority for the purposes

of this Act, and for carrying the same into execution, and shall be subject and liable to the like pains and penalties, and to the like power of removal, in all respects as if he had been appointed by virtue of this Act.

Municipal officers and servants held to be public servants within meaning of Penal Code.

51. Every member of the Town Council, municipal officer or subordinate officer, and every servant, of every description, paid out of the municipal fund, and every contractor or agent to whom the levy of any rate, toll, tax or other impost shall be entrusted by or on behalf of the Corporation, and any servant or other person employed by such contractor or agent for the collection of such rate, toll, tax or other impost shall be held to be a public servant within the meaning of section 21 of the Indian Penal Code.

Obstruction of Commissioner or servants.

52. Whoever wilfully obstructs or molests the Commissioner, or any of the officers or servants of the Corporation in the performance of their respective duties under this Act, shall be liable, on conviction before a Magistrate, to the penalty provided by section 186 of the Indian Penal Code.

Officers not to be interested in contracts, &c., made with Corporation.

53. No person shall be qualified to be appointed, or to be, Municipal Commissioner or an officer or servant of the Corporation during such time as he shall have, directly or indirectly, any share or interest in any contract or employment with, by or on behalf of, the Corporation;

and any person who, being the Municipal Commissioner or an officer or servant of the Corporation, shall acquire, directly or indirectly, any share or interest in any such contract or employment shall cease to be such Commissioner, officer or servant.

Penalty for member of Town Council or officer of Corporation being so interested.

Any person who, being a member of the Town Council or the Municipal Commissioner or an officer or servant of the Corporation, shall acquire, directly or indirectly, any share or interest in any such contract or employment shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code.

Exceptions.

But the disqualification and penalty prescribed by this section and the disqualification prescribed by section 8, clause (*d*), shall not be deemed to apply by reason only of a person having

(*a*) a share in any Joint Stock Company which shall contract with, or be employed by, or on behalf of, the Corporation, or

(*b*) a share or interest in any newspaper in which any advertisement relating to the affairs of the Corporation may be inserted.

Commissioner may contract for works provided for in budget. Mode of making contracts.

54. The Municipal Commissioner may, on behalf of the Corporation, enter into any such contracts as may be necessary for carrying into execution any works or duty authorized by the budget previously sanctioned, to the extent of the sums provided for the said works or duty in the said budget, and every such contract on behalf of the Corporation may be made as follows (that is to say):—

(1) any contract which, if made between private persons, would be by

law required to be in writing and under seal, may be made on behalf of the Corporation in writing, under the common seal of the Corporation, which shall be affixed in the manner prescribed in section 22 of this Act, and such contract may in the same manner be varied or discharged;

(2) any contract which, if made between private persons, would be by law required to be in writing and signed by the parties to be charged therewith, may be made on behalf of the Corporation in writing signed by the Municipal Commissioner, and such contract may in the same manner be varied or discharged;

(3) any contract which, if made between private persons, would by law be valid although made verbally only and not reduced into writing, may be made verbally on behalf of the Corporation by the Municipal Commissioner, and such contract may in the same way be varied or discharged.

And all contracts made according to the provisions of this section shall be effectual in law, and shall be binding upon the Corporation and their successors and all other parties thereto, their heirs, executors, administrators or representatives, as the case may be:

Provided that the Municipal Commissioner shall have no authority to make on behalf of the Corporation any contract for a work, service or duty, or portion of such work, service or duty, the cost of which, as estimated in the budget, shall exceed rupees five thousand, or any contract enduring for a longer period of time than the time elapsing between the making of such contract and the end of the budget-year unless the previous consent of the Town Council to the making of such contract shall have been obtained.

Contracts to be reported to Town Council: contracts for works or materials to be in writing.

55. All contracts entered into by the Municipal Commissioner on behalf of the Corporation shall be reported to the Town Council within one week after the same respectively are made, and all such of the said contracts as relate to the execution of any work or the furnishing of any materials, and whether for more or less than five thousand rupees, shall be in writing, and shall specify the work to be done and the materials to be furnished, and the price to be paid for the same, and the time or times within which the work is to be completed, and the penalties to be suffered in case of the non-performance thereof.

Mode of entering into contracts of Rs. 2,000 or more.

56. Before any contract involving an expenditure of two thousand rupees or upwards for the execution of any works directed or authorized by this Act to be done by the Commissioner or for furnishing materials, or for any other things necessary for the purpose of this Act, shall be entered into by the Commissioner, seven days' notice at the least shall be given in at least one of the daily English newspapers and in two of the vernacular newspapers circulating in Bombay, expressing the purpose of such contract and inviting any

persons willing to undertake the same to make proposals for that purpose to the Commissioner, and the Commissioner may accept the proposal which, upon a view of all the circumstances, shall appear to him to be the most advantageous, and shall, if he accept them, take a deposit or security for the due and faithful performance of every such contract: provided that, in the case of any contract involving a greater expenditure than five thousand rupees, such proposals shall not be accepted without the previous consent of the Town Council.

But it shall be lawful for the Town Council, if in any case it shall deem fit, on recording its reasons for the same, to authorize the Municipal Commissioner to enter into any such contract as aforesaid without previously giving notice and inviting tenders as herein provided, or without accepting any tender which he may receive after such notice has been given.

Compounding of penalties.

57. The Municipal Commissioner, with the sanction of the Town Council, may compound with any contractor or other persons in respect of any penalty incurred by reason of the non-performance of any contract entered into as aforesaid, whether such penalty be mentioned in any such contract, or in the bond, or otherwise, for such sums of money or other recompense as to the Town Council may seem proper.

Town Council to grant leave of absence, &c. Sanction of Government required in certain cases.

58. It shall be lawful for the Town Council to grant such leave of absence to any officer appointed under this Act as shall to them seem proper, or to delegate such power to the Commissioner, and in the case of any officer so appointed, to make fit arrangements for the duties of his office during his absence on leave:

Provided that, in any case in which leave of absence shall be granted to the Municipal Commissioner, the confirmation of the Government shall be requisite, and the Government shall make fit arrangements for conducting the duties of such officer.

Acting appointments.

Any person appointed under this section to act for an officer shall, while so acting, have all the powers, and be liable to all the restrictions, limitations and provisions which such officer for whom he may be appointed to act would, under this Act, have or be liable to.

Allowances during absence on leave.

59. The Town Council shall make rules fixing the allowances to be paid to officers during absence on leave granted under the last preceding section: Provided that, in the case of the Municipal Commissioner, the Governor in Council shall fix the allowance to be paid during such absence on leave as shall to him seem proper.

Police Commissioner to co-operate with Municipal Commissioner.

60. The Commissioner of Police shall co-operate with the Municipal Commissioner for the maintenance of good order and peace throughout the city, and shall render all the aid that may be in his power to carry out the objects of this Act.

Power of Police to arrest offenders

61. Any Police-officer may arrest any person committing in his view any offence against any of the provisions of this Act, if the name and address of such person be unknown to him, or if such person decline to give his name and address, or if the Police-officer in question shall have reason to doubt the accuracy of such name and address, if given; and such person may be detained at the station-house until his name and address shall be correctly ascertained.

Proviso.

Provided that no person arrested under the provisions of this Act shall be detained in any way without the order of some Magistrate, longer than shall be necessary for bringing him before a Magistrate, or than forty hours at the utmost.

Clause 2.—It shall be the duty of all Police-officers to give immediate information to the proper municipal officers of any offence committed contrary to the provisions of this Act, and to assist all Collectors and other municipal officers in the exercise of their lawful authority.

IV.—Municipal Property and Fund.

Property of Justices vested in Corporation.

62. The property moveable and immoveable which shall be vested in or held in trust for the Corporation of the Justices appointed under Act II of 1865, or which would have been vested in or held in trust for such Justices but for the passing of this Act, with all rights of way and easements, and all other rights of whatsoever description now used, enjoyed or possessed by the said Justices, shall be vested in the Corporation for the purposes of this Act.

63.—[*Repealed by Act No. XII of 1876.*]

Vehar lake and water-works vested in Corporation.

64. The Vehar lake in the island of Salsette, and all the land adjacent thereto up to the level of the embankment on the southern side thereof, and included within the limits delineated in a plan deposited in the office of the Secretary to the Government of Bombay, and authenticated by the signatures of the Governor and Members of Council, and marked A, and all the land and other immoveable property which is necessary for the purpose of conveying the water of the said lake by pipes into the town of Bombay, and there distributing the same, and which, being the property of Government, has ordinarily been applied to or employed for the purposes aforesaid, and which is now vested for the residue of a term of ninety-nine years, commencing on the first day of July, 1863, in the Justices, shall be vested for the residue of the said term in the Corporation, in trust for the purposes of this Act and subject to the conditions hereinafter provided;

and it shall be lawful for Government at the end of the period of ninety-nine years aforesaid to order that the said property shall vest, and the same shall in such case vest, in the said Corporation on the conditions and for the purposes

aforesaid for such further period not exceeding ninety-nine years from the day on which the said term shall expire as shall seem expedient:

Proviso. Provided that on the expiration of the said first term of ninety-nine years, or of any further term for which the Government may have ordered that the said property shall vest in the said Corporation, all rights and every power conveyed to the said Corporation under this Act shall forthwith cease and determine, and the said property shall revert to, and become vested in, Government, as the same was vested in the said Government before the first day of July, 1863.

Municipal fund. **65.** All moneys received by or on behalf of the Corporation by virtue of this or any other Act, all rates, taxes, tolls and other imposts, fines, fees, penalties, paid or to be levied by them under this Act, all proceeds of land or other property sold by the Corporation, and all rents accruing from the land or property of the said Corporation, as also all interest, profits and other moneys accruing by gifts or transfers from Government, or private persons or otherwise, shall constitute the municipal fund, and shall be held and dealt with by the Corporation as hereinafter provided.

Levy of rates, taxes, tolls and duties. **66.** The rates, taxes, tolls and duties to be levied under this Act, for the purposes of the same, shall be as follows:—

(1) a consolidated rate for general purposes and for the special purposes of Police and lighting payable on the annual value of houses, buildings and lands:

(2) rates payable on the annual value of houses, buildings and lands for the special purposes of water-supply and halálkhor-service:

(3) a supplementary tax to meet excess of expenditure over income in a given year:

(4) taxes on carriages, horses, ponies and mules:

(5) tolls on labour-carts entering the city from the island of Salsette:

(6) town-duties:

(7) a tax on Fire Insurance Companies.

Rates and taxes when to be fixed. **67.** At the special general meeting to be held in accordance with section 35 of this Act or at any adjournment thereof, the Corporation shall fix the rates at which the rates, taxes, tolls and duties leviable under this Act shall be levied for the year commencing on the first day of January next ensuing. The rates shall be fixed before the tenth day of December in each year and shall not be altered before the next succeeding month of November.

Assessment, &c., not impeachable for want of form. **68.** No assessment and no charge or demand of rates, taxes, tolls or duties under the authority of this Act shall be impeached or affected by reason of any mistake in the name of any person liable to pay the rate, tax, toll or duty, or in the description of any property or thing liable to rate, tax, toll or duty, or any mistake in the amount of assessment, nor shall any proceeding under this Act be quashed or set aside for want of form in any Court of Justice:

Provided that the directions of this Act be in substance and effect complied with.

Property-rates.

Property-rates leviable

69. The following annual rates shall be levied upon houses, buildings and lands in the said city and shall be called "Property-rates" (namely):—

Consolidated rate.

(1) a consolidated rate of not less than eight per centum nor more than twelve per centum of their annual value,

(*a*) for the general purposes of this Act, and

(*b*) for the expenses of the Police of the city and of the maintenance of a fire-brigade and other expenses in connection with the protection of the city from fire, and

(*c*) towards providing for the expense of lighting the public streets with gas, or by other suitable means;

Water-rate.

(2) a water-rate of so many per centum of their annual value as may appear to the Corporation, after consideration of the estimates of the Commissioner, sufficient to provide for the maintenance, repairs, extension, improvement and other expenses connected with the Vehar water-works as hereinafter provided, or for any other water-works hereafter constructed with the consent of Government, and as may be sanctioned by Government;

Halálkhor-rate.

(3) whenever the Commissioner shall have given notice, by advertisement or otherwise, to the owner of any house, building or land, or to the owners generally in any ward or district into which the city is or may be divided, that he will on and from a day to be named in such notice perform through his agents the duties usually performed by halálkhors, an halálkhor-rate of so many per centum, not exceeding three of their annual value, as may appear to the Corporation, after consideration of the estimates of the Commissioner, likely approximately to cover the expenses incident to the performance of such duties:

Proviso

Provided

(1) that the said water-rate and the said halálkhor-rate shall be respectively charged only in respect of property into which water is actually conducted and supplied, or in which the Commissioner has given notice of his intention to have the duties of halálkhors performed by his agents;

(2) that for the purposes of the said water-rate the words "houses, buildings and land" shall be deemed to include all wharves and other structures and all works and places whatsoever into which water shall be conducted and supplied;

(3) that not more than seven rupees nor less than four annas per mensem shall be leviable on account of the said halálkhor-rate in respect of any one house or building or of any one separate holding of land.

Property-

69A. Each of the said property-rates shall be payable in advance in half-

yearly instalments; that is to say, the first instalment for the year shall be due and leviable on the first of January and the second instalment on the first of July of each year. rates how leviable.

All the amounts due for each half-year on account of any of the said rates by one and the same person on account of one and the same property shall be charged to such person in one bill, and shall be recoverable from him in the lump.

70. The estimated gross annual rent at which the houses, buildings and lands liable to the rates aforesaid might reasonably be expected to let from year to year, after deducting from such rent ten per cent. in lieu of all allowances for repairs or otherwise shall, for the purposes of the said rates, be held and deemed to be the annual value of such houses, buildings and lands. The value of a house or building so estimated shall not include the value of any machinery contained therein. Annual value how ascertained.

70A. The said rates shall be leviable from the actual occupier of the house, building or land upon which they are assessed if the said occupier be himself the landlord of such house, building or land, or if he hold the same immediately from Government. In any other case the said rates shall be leviable from the immediate landlord of the actual occupier, or, when the property is unoccupied, from the person who would be the immediate landlord of the occupier if it were occupied: Property-rates from whom leviable.

Provided that if any person hereby made liable to the said rates himself pays rent to another person other than Government in respect of his interest in the house, building or land for which he is assessed to such rates, he shall be entitled to credit in account with such other person for such sum as would be leviable on account of the said rates if the amount of the rent payable by him were the full annual value of the property taxed. Person liable to property-rates entitled to credit in account with person to whom he himself pays rent.

And any person other than Government, possessing any interest in or over any such property superior to that of the person assessed to the said rates, in respect of which he receives rent from any other person, shall be bound to give credit in account to such other person for such sum as would be leviable on account of the said rates if the rent which he receives were the full annual value of the property assessed. Credit to be allowed by superior holders for proportion of property-rates on rents receivable.

But nothing in this section shall be deemed to affect any agreement into which persons interested in any such property have entered, or may hereafter enter, concerning their respective liability on account of the aforesaid rates, and when any person other than the person hereby made liable for the said rates has by any such agreement rendered himself responsible for the same or for any portion thereof, the person hereby made liable shall be entitled to recover the amount of the said rates or such portion thereof from the said person. For this purpose the portion of the consolidated rate levied for lighting shall be Saving of express contracts.

deemed to be two per centum, and for the Police two per centum, of the annual value of the property assessed; but if at any time the said consolidated rate is increased on account of the expenses of lighting or of the Police, the amount of such increase may be added to the said two per centum on account of lighting or Police respectively.

Valuation to be made and entered in book.

71. For the purpose of such assessment as aforesaid, the Commissioner shall from year to year cause a valuation to be made of all houses, buildings and lands liable to the said rates; such valuation, estimated as hereinbefore provided, shall be entered in a book, to be kept in the office of the Commissioner, and to be called "The Assessment-Book," wherein shall also be written in such form as the Commissioner shall direct the name of the person liable to payment of the rates aforesaid,[a] a designation of the property, either by name or number, sufficient to identify the same, together with the name of the street or district in which such property is situate, and the amount of the rates assessed thereon.

72.—[*Repealed by Act No. XII of 1876.*]

Person liable to rates how designated if his name not ascertainable.

73. When the name of the person liable to payment of the rates aforesaid cannot be ascertained, it shall be sufficient to designate him in the assessment-book and also in any notice or other proceeding under this Act as 'the landlord' or 'the occupier' of the property on which the rates are assessed without further description.

Liability of occupier if he fails to give information

When in any such case any person in occupation of any house, building or land shall refuse to give such information as may be necessary for determining who is liable to payment of the said rates, such person shall himself be liable, until such information is obtained, for all the said rates leviable on such house, building or land.

Power to require returns for valuation

74. *First.*—In order to enable the Commissioner to arrive at a fair valuation or measurement of any houses, buildings or lands liable to the said rates, it shall be lawful for the Commissioner to require the owner or occupier of such houses, buildings or lands, to furnish him with returns of the measurement and of the rent or annual value thereof, and for the like purpose it shall be lawful for the Commissioner, or any person or persons appointed by him for that purpose, at any time between 5 A. M. and 7 P. M., to enter and inspect and measure such houses, buildings or lands, after having given forty-eight hours' previous notice in writing of his intention to the occupier thereof.

Power to enter houses, &c.

Penalties for not furnishing returns, &c.

Second.—Whoever refuses or fails to furnish any of the returns specified in the preceding clause for the space of one week from the day on which he shall have been required so to do, shall be liable, on conviction before a Magistrate,

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[a] See Bombay Act No IV of 1878

to the penalty provided in section 176 of the Indian Penal Code for omitting to furnish information required by law, and

whoever knowingly makes a false or incorrect return, shall be liable, on conviction before a Magistrate, to the penalty provided in section 177 of the aforenamed Code for furnishing false information to any public servant, and

whoever hinders, obstructs or prevents the Commissioner, or any person appointed by him as aforesaid, from entering or inspecting, or measuring any such houses, buildings or lands, shall be liable, on conviction before a Magistrate, to the penalty provided by section 186 of the said Code, for obstructing a public servant in the discharge of his public functions.

75.—[*Repealed by Bombay Act No. IV of 1878.*]

Provisions for buildings let in flats or sets of apartments.

76. *First.*—In the case of houses or buildings let in flats or sets of apartments constructed so as to form distinct dwelling-places and let as separate tenements, it shall be lawful for the Municipal Commissioner to treat such flats or set of apartments as separate property for the purpose of the said rates:

Provided that if any portion of such flat or set of apartments is occupied, the said rates shall be leviable on the valuation of the whole tenement.

Provisions as to lodgings or godowns.

Second.—In the case of any chaul or building let out for hire in single rooms, either as lodgings or godowns for the storage of goods, the said rates shall be levied on the annual value of each floor, and the landlord of any such chaul or building shall, if he apply to the Commissioner for such remission on account of the half-year then commencing at any time within fourteen days after the first day of January or the first day of July, and furnish full particulars of the situation of such chaul or building and of the number of the rooms and godowns therein, be entitled to a remission of one-fifth part of the consolidated rate leviable thereon under the provisions of section 69 of this Act:

Provided that no landlord of any chaul or building shall be entitled to such remission for any floor on which any trade or manufacture is carried on or any goods sold.

Buildings and lands exempt.

77. Buildings exclusively occupied for public worship or charitable purposes, and buildings and lands owned by Government or by the Corporation, shall be exempt from the consolidated rate leviable under section 69.

Public notice of valuation to be given.

78. When the valuation under section 71 of this Act shall have been completed, the Commissioner shall give public notice thereof, and of the place where the assessment-book or a copy of the said book may be inspected, by advertisement in the Government Gazette, and in at least one of the daily English newspapers and in one Guzaráthí daily newspaper and one Maráthí

newspaper published in Bombay, and also by placards posted up in conspicuous places throughout the city;

and the person in whose custody the assessment-book may be shall permit every person claiming to be the owner or occupier of property included in the assessment or measurements, or the agent of such owner or occupier, to inspect the book and to make extracts therefrom without payment of any fee; and every person who does not claim to be such owner or occupier shall be permitted to inspect and make extracts, in like manner, on payment of a fee of one rupee.

Notice of time of revising assessment

79. The Commissioner shall, at the time and in the manner in the preceding section mentioned, give public notice of a day, not being less than fifteen days from the publication of such notice, when he will proceed to revise the said valuation or measurement and assessment; and in all cases in which any property is for the first time assessed, or in which the valuation or measurement of any property previously assessed is increased, shall give special notice thereof to the owners or occupiers of such property.

All complaints against such valuation or measurement and assessment shall be made to the Commissioner by application in writing, left at his office three days before the day fixed in the said public notice for the revising of the said valuation or measurement and assessment, and upon hearing such complaints, the Commissioner shall make such amendments, if any, in the said assessment and in the assessment-book as he shall think proper.

After revision, assessment-book to be authenticated by Commissioner.

80. After the complaints have been inquired into and after the revision of the valuation or measurement and assessment has been completed, the amendments, if any, made in the assessment-book shall be authenticated by the signature of the Commissioner, who shall at the same time certify, under his signature, that no valid objection has been made to the valuation or measurement and assessment in the said book entered, except in the cases in which amendments have been made as shown therein,

Rate assessed deemed rate for whole year.

and thereupon, and subject to such alterations and amendments as may thereafter be duly made, the rates so assessed shall be deemed to be the rates for the whole year for which the assessment is made, and such year shall be from the first day of January.

Alteration or amendment of assessment.

81. Provided always that the Commissioner, upon the representation of parties or other information, may at any time amend the assessment-book, by inserting therein the name of any person whose name ought to be so inserted, or any property liable to the rates previously omitted, or by striking out the name of any person or any property not liable to the rates, or by increasing, or by reducing, the amount of the rates; and in all cases in which any property is inserted as liable to the rates, the amendment shall be considered to have

been made at the time when the person interested first received notice thereof.

Refund on account of vacancies.

82. *First.*—When any house, building or land, or any portion of a house let as a separate tenement, or for lodgings or godowns, as described in section 76 of this Act, shall have been vacant for sixty consecutive days, the Commissioner shall refund two-thirds of the amount of consolidated rate leviable under section 69 of this Act for the number of days the said house, building or land, or portion of a house may have remained unoccupied; and if such house, building or land, or portion of a house, shall have been vacant for thirty consecutive days, the Commissioner shall refund the amount of the water-rate and halálkhor-rate, for the number of days the said house, building or land, or portion of a house, may have remained unoccupied:

Provided that the person liable to the payment of the said rates or his agent shall have given notice in writing of the vacancy to the Commissioner, and that the amount of rate to be refunded shall be calculated from the date of the delivery of such notice, and, in the case of the water-rate, that no water shall have been used in the house, building, land or portion of a house, during the time the same remained unoccupied: and provided further that no refund of consolidated rate shall be admissible in any case in which a remission has already been allowed under clause 2 of the said section 76.

Claims for refund to be made within thirty days.

Second.—All applications for refunds falling due in any half-year shall be made within thirty days after the expiration of such half-year, in default whereof the claim to refund may be disallowed.

Continued vacancy.

Third.—In the event of continued vacancy at the commencement of any half-year, the owner shall give notice in writing of the same to the Commissioner within fifteen days after the commencement of the half-year. In default of such notice, his claim to refund on account of such continued vacancy shall be forfeited.

Notice to be given of houses newly built or rebuilt.

83. When any house or building shall have been newly built, or shall be rebuilt, or shall be enlarged so as to increase the yearly value, or when any house or building which has been vacant is reoccupied, the owner shall give notice thereof in writing to the Municipal Commissioner within fifteen days from the date of completion of the building, rebuilding or enlargement, or from the date of occupation of each newly built or rebuilt or enlarged property, whichever date happens first, or, in the case of any house or building which has been vacant, from the date of the reoccupation thereof. In default of such notice the owner will be liable to a fine not exceeding (50) fifty rupees, on conviction before a Magistrate.

Notice to be given of demolition or

84. When any house or building is demolished or removed, otherwise than by order of the Municipal Commissioner, the person liable for the payment of

Removal of house.

the aforesaid rates in respect of such house or building shall give notice thereof in writing to the said Commissioner within fifteen days from the date of completion of such demolition or removal; until such notice is given, the said person shall continue to be liable to the payment of all rates which would have been leviable had such house or building not been demolished or removed.

New assessment-book need not be prepared yearly.

85. It shall not be necessary to prepare a new assessment-book every year, but the Commissioner may adopt the valuation, measurement or assessment contained in the book for the preceding year, with such alterations as may, in particular cases, be deemed necessary, as the valuation, measurement or assessment for the year following:

Proviso.

Provided always, that public notice of such valuation and assessment shall be given in the manner prescribed in section 78 of this Act; and the provisions of the said section and of the three following sections shall be applicable to the valuation and assessment, and to the book or books in which it is contained; and provided, moreover, that a new assessment-book shall be prepared every fourth year at the least.

Whenever a new assessment-book is prepared, the Municipal Commissioner shall cause copies of the same to be printed and kept at the municipal office for sale to the public at such reasonable price as he shall deem fit.

In certain cases halálkhor-rate may be fixed with reference to duties performed

86. It shall be lawful for the Commissioner, with the consent of the Town Council, to fix the amount of halálkhor-rate to be levied in respect of any hotel, club or other large building or premises, with reference to the extent of the duties to be performed, instead of at so many per centum of the annual value of the property.

In any such case the limits prescribed by proviso (3) to section 69 of this Act shall not apply to the amount of rate so leviable.

87, 88, 89.—[*Repealed by Bombay Act No. IV of 1878.*]

Commissioner may supply water by measurement and contract.

90. In place of the water-rate, it shall be lawful for the Commissioner, whenever he may think fit, to supply water to any person by measurement, in such quantities and on such terms and conditions as shall seem fit to the said Commissioner, and to contract for the supply of such water for any purpose whatever to any person without measurement at a reasonable fixed rate, and all moneys due to the Commissioner, on behalf of the Corporation, on account of any water so supplied, shall be recoverable in like manner as the other rates payable under the provisions of this Act:

Provided that all such terms, conditions and contracts shall be subject to revision by the Town Council.

Penalty for fraudulent

91. Every person liable to the payment of any rate or price to the Commissioner on behalf of the Corporation for any water supplied to him upon

certain conditions as to the use of the same, who shall fraudulently dispose of such water to other persons or for purposes in violation of the said conditions, shall be liable, on conviction before any Magistrate, to a fine not exceeding one hundred rupees, and, in default of payment of such fine, shall be punished with simple imprisonment for a period not exceeding one month. Disposal of water.

92. The Commissioner shall keep accounts of all receipts and disbursements on behalf or by reason of the Vehar water-works, apart and distinct from any other accounts, and shall annually present to Government, and cause to be published in the Government Gazette, a statement of such accounts, and the said accounts shall at all reasonable times be open to examination and audit by any person appointed on that behalf by Government; Commissioner to keep accounts. Statement of accounts to be published.

and if upon the report of the person so appointed, it shall appear that the said accounts are falsely, erroneously or negligently kept, it shall be lawful for the Government to order the same to be corrected, and to be kept in future with due diligence according to such form as Government may prescribe, and the Commissioner shall be bound to conform to such order.

93. If from any such annual report of the Commissioner, or any report of an examiner appointed by the Government as aforesaid, it shall appear that after paying to Government the sums due under this Act, in respect of the Vehar water-works, and after providing for the repairs and maintenance of the said lake and water-works and the payment of necessary salaries, there remain in the hands of the Commissioner or his agents any surplus of moneys received on account of the said water-works leviable under this Act, it shall be lawful for the Commissioner, with the sanction of the Corporation, to expend the same in such extensions and improvements of any water-works belonging to the Corporation, and of the apparatus connected therewith, as the Government may sanction; Disposal of surplus-funds. When water-rates may be reduced.

and if such improvements or extension shall appear to be necessary, it shall be lawful for the Government to require that the same may be made;

and if it shall appear that the surplus, after providing for such payments to Government and for such expenses of repairs and maintenance as aforesaid, has in any year exceeded the sum of fifty thousand rupees, the Commissioner may, with the consent of the Corporation and with the sanction of the Government, forthwith impose a new scale of rates and prices, so calculated as to reduce the annual receipts on account of the said water-works, either by the whole amount by which the same exceed the necessary disbursements on account thereof, or by such sum as shall remain after providing for the extension and improvements which may properly be made out of the said surplus or profits; and in failure thereof, the Government may order such new scale to be made, or may prescribe a new scale calculated as aforesaid, which new

scale the Commissioner shall forthwith adopt, and shall thereafter recover such demands only for supplies of water as are in accordance therewith.

Public wells or tanks free from rate.

94. No rate shall be charged for the supply of water from any public well, tank, reservoir, fountain, stand-pipe or the like, from which the public may or shall ordinarily have drawn water without payment, and the public shall, subject to any rules promulgated with the sanction of Government under this Act, have free access thereto, and may draw water therefrom without hindrance or payment of any fee whatever.

Water and halálkhor-rates recoverable from occupiers.

95. Any person who has paid to the Corporation any halálkhor-rate or any water-rate other than a rate determined under section 90 of this Act, in respect of any house, building or land shall, if he was not himself in occupation of such house, building or land during the period for which such payment has been made, be entitled to recover the same from the person, if any, actually in occupation of such house, building or land for the said period:

Saving of express contracts.

Provided that nothing in this section shall be deemed to affect the relative rights of parties who have entered, or may hereafter enter, into any agreement as to their respective liabilities on account of the said rates, so long as such agreement continues in force.

Supplementary Tax.

Supplementary tax.

96. Whenever it shall appear, from the statement of actual cash-receipts and expenditure in any year, laid before the Corporation at their quarterly meeting in the month of April next following, as provided in section 33 of this Act, that the receipts on account of the municipal fund have not been sufficient to meet the expenditure sanctioned in the budget, the Corporation shall forthwith provide funds for supplying the deficit, either by diminishing the expenditure proposed for the current year and re-adjusting the items of the budget for that year, or by raising additional income to cover the amount of the deficit,

and for the purposes aforesaid it shall be lawful to the Corporation, subject to any sanction of Government which may be requisite under this Act, to increase any of the rates, taxes or duties which the Corporation is empowered to increase under the provisions of this Act, so as to raise the said additional income, anything provided in section 37 of this Act to the contrary notwithstanding.

The Town Council shall forthwith apply the funds provided in the manner aforesaid to discharge the liabilities incurred in consequence of the excess of expenditure over receipts, and so soon as the accounts of the year are finally closed, shall publish in the Government Gazette, and in at least one of the daily English newspapers, and in one daily Guzaráthí newspaper, and in one Maráthí newspaper published in Bombay, a report describing in detail the

proceedings taken by them under this section, and the manner in which the moneys collected have been applied.

97 to 103.—[*Repealed by Bombay Act No. IV of 1878.*]

Taxes on Carriages, Horses, Ponies and Mules.

104. A tax shall be levied on all carriages, carts, hackeries, horses, ponies and mules kept within the said city, and upon all carts and hackeries plying for hire within the said city, or let for hire and used within the said city, and kept at any place beyond the limits thereof, at the rates specified in schedule A, and shall be payable quarterly by the owners, or persons having charge of the same, except as hereinafter otherwise provided: Tax on carriages, &c.

Provided that the Corporation may reduce, alter or modify this tax, as they may deem fit, but may not increase the rates specified in the said schedule, and provided that this section shall not apply to or include gun-carriages, ordnance-carts or wagons, artillery and cavalry-horses, or horses certified by the Commissioner or the Commissioner of Police to be employed by their owners for municipal or Police purposes, or the respectively authorized number of horses belonging to officers doing regimental or other military duty at the Presidency, or vehicles, horses, ponies or mules belonging to the Government or to the Corporation, or vehicles kept for sale, and not used for any other purpose, if kept by *bonâ fide* dealers in such vehicles: Proviso.

Provided also that public conveyances liable to the payment of a license-fee under (Bombay) Act VI of 1863 shall be required to pay in half-yearly instalments in advance the tax leviable under this section, the first instalment being payable at the same time as the said license-fee.

105. Every person who may have owned or had charge of any vehicle or animal kept for use within the said city for any portion of a quarter exceeding seven days, shall be liable for the whole tax of that quarter: Possession for part of quarter involves liability for whole.

Provided that in case any such person has kept or had charge of any vehicle or animal for a period less than thirty consecutive days, the Commissioner shall remit two-thirds of the tax for the quarter. Proviso.

106. If a carriage or other vehicle shall have been under repair or standing at a carriage-maker's for the whole period contained in any quarter, no tax shall be leviable in respect of such carriage or other vehicle for that quarter. Carriages and other vehicles under repair.

107. The Commissioner may compound, for any period not exceeding one year, with livery-stable-keepers and other persons keeping carriages and horses for hire, for a certain sum to be paid for the carriages and horses so kept by such persons, in lieu of the taxes specified in schedule A: Commissioner may compound with livery-stable-keepers and others.

Provided that every such composition shall be subject to revision by the Town Council.

List of persons liable to tax to be entered in book

108 The Commissioner shall, from time to time, cause to be prepared and entered in distinct columns in a book, to be kept at the office of the Commissioner, and to be open to the inspection of any rate-payer during office-hours[a] a list of the persons liable to the payment of such taxes, a description of the vehicles and animals in respect of which they are liable, and the amount of the taxes assessed thereon.

Returns may be required for purpose of making list.

109. In order to enable the Commissioner to make such list, the Commissioner or any officer authorized by him shall send to all persons supposed to be liable to the payment of such taxes, a schedule to be filled up with such information respecting the vehicles and animals kept by them as the Commissioner may judge necessary for the assessment of the taxes

The schedules shall be filled up in writing, and signed and dated, and returned to the office of the Commissioner, by every person to whom it has[b] been sent, whether or not liable to the payment of such taxes, and whoever refuses, neglects or omits duly to fill up and return such schedules within one week from the receipt thereof, or knowingly gives therein any incorrect or false return, shall be respectively liable, on conviction before a Magistrate, to the penalties provided by sections 176 and 177 of the Indian Penal Code

Notice to be given to Commissioner by owner under certain circumstances

110 Every person who by reason of not being possessed of any carriage, cart, hackery, horse, pony or mule, has not paid any tax in respect thereof for the previous quarter, shall, on becoming possessed of any conveyance or animal liable to such tax, give notice thereof to the Commissioner within fifteen days from the time of becoming so possessed

In default of such notice, the possessor will be liable, on conviction before a Magistrate, to a penalty not exceeding (50) fifty rupees

Power to inspect stables &c, and to summon persons liable to payment of tax

111 It shall be lawful for the Commissioner, or any person or persons appointed by him for that purpose, at any time between 5 A M and 7 P M, to enter and inspect any stable or coach-house, or any place wherein he may have reason to believe that there is any vehicle or animal liable to taxation under section 104 of this Act, and the Commissioner may summon any person whom he has reason to believe to be liable to the payment of any tax under the last-mentioned section, or any servant of such person, and may examine such person or servant as to the number and description of the horses and carriages in respect of which such person is liable to be taxed.

Penalty for disobeying summons or hindering Commissioner

112. Whoever on being summoned under the preceding section fails, without lawful excuse, to appear in pursuance of the summons, shall be liable, on conviction before a Magistrate, to the penalty provided by section 174 of the Indian Penal Code,

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[a] See Bombay Act No IV of 1878 [b] *Sic* Read 'they have'

and whoever hinders or obstructs the Commissioner, or any person appointed by him as aforesaid, from entering or inspecting or leaving any such stable, coach-house or place, shall be liable, on conviction before a Magistrate, to the penalty provided by section 186 of the aforenamed Code, for obstructing a public servant.

Toll on Labour-carts.

Toll on labour-carts from island of Salsette

113. A toll not exceeding two annas per cart may, with the consent of the Town Council, be levied by the person authorized by the Municipal Commissioner on all labour-carts not already paying the tax imposed under section 104 of this Act, which may enter the city from the island of Salsette, and on each occasion of such entrance.

Every driver of such cart shall receive a ticket certifying payment of toll, but the possession of such ticket shall not authorize the said cart to ply for hire within the city.

It shall be lawful for the Municipal Commissioner, with the sanction of the Town Council, to farm out this toll.

Town-duties.

Levy of town-duties.

114. Duties at the rates specified in the schedule B annexed to this Act shall be leviable, in respect of the several articles therein mentioned, when imported from any place into the city of Bombay.

The said duties shall be called town-duties, and shall be leviable in addition to any customs-duties prescribed by law:

Proviso.

Provided that no such duty shall be leviable upon any article imported by, or on behalf of, Government or by any contractor or other person for the *bonâ fide* purpose of fulfilling any contract with Government, when such article is covered by a certificate from any Government-officer duly empowered by Government to issue such certificates certifying that it is for any of the above reasons exempt from such duty.

Power to Corporation to impose town-duties.

115. At the special general meeting of the Corporation to be held under the provisions of section 35 of this Act in November in each year, it shall be lawful for the said Corporation to fix the rates for the said town-duties to be levied for the year then next following after such meeting in respect to all or any of the articles made liable to town-duties under the provisions of this Act, and for that purpose to retain or omit all or any of such articles accordingly for the then ensuing year:

Provided that such rates so from time to time to be fixed shall not exceed the rates authorized to be levied under the provisions of this Act, or be imposed in respect of any other articles than those liable to town-duties under this Act, and the town-duties when so fixed shall be the town-duties leviable for the then next ensuing year.

Town-duties how levied and collected.

116. The said town-duties shall be payable on demand, and shall be levied and collected by and under the management of the Municipal Commissioner and officers subordinate to him, or, with the sanction of Government, by the Commissioner of Customs or the officer appointed to levy bandar-fees under (Bombay) Act I of 1873, or any other Act for that purpose, and their subordinate officers respectively, as may to the Corporation appear from time to time expedient:

Provided that Government may from time to time fix the charges which the Commissioner of Customs or officer levying bandar-fees, shall be entitled to deduct for the necessary expenses of collecting the said town duties and accounting for the same.

Second.—Provided also that it shall be lawful for the said Municipal Commissioner, with the sanction of the Town Council, to make such arrangements as in his discretion he may deem fit with any Railway Company for the levy and collection of town-duties under this Act.

Powers of officers appointed to collect town-duties.

117. The officers appointed under the preceding section to levy town-duties shall have the same powers for collecting and enforcing payment of the said town-duties as are exercised by the Commissioner of Customs of Bombay and his subordinate officers in respect of customs-duties, and shall have the same privileges, and be subject to the same liabilities, in respect of anything done by them in collecting and enforcing payment of town-duties, as the Commissioner of Customs and his subordinates have or are subject to under the provisions of any Act in force relating to the said customs.

Punishment of offenders.

And the law for the time being in force for the punishment of offences relating to the levy or payment of duties of sea-customs and for the reward of informers shall, as far as may be, apply to similar offences committed in respect of the said town-duties.

Moneys where to be paid.

118. All moneys collected or recovered on account of the town-duties under this Act and the proceeds of all confiscations adjudged under the last preceding section shall from time to time be paid into the bank which is now or may hereafter be appointed to conduct the business of Her Majesty's treasury in Bombay, and shall be carried to the credit of the municipal fund.

Commissioner to keep accounts of town-duties.

119. The Commissioner shall keep accounts of all receipts and disbursements on account of the town-duties, and shall submit a detailed statement of the same to the Corporation, together with the annual report required from him under section 33 of this Act, and such accounts shall be audited and examined in like manner as other municipal accounts.

Refund.

120. When any of the articles upon which town-duties shall have been paid shall be exported, the full amount of town-duties shall, under such rules as the Commissioner, with the sanction of the Town Council and of Government, shall from time to time notify, be repaid as refund,

provided that the articles be exported within six months, or in the case of timber twelve months, from the date of importation, and that application for such refund be made within one month from the date of exportation.

and provided also that no refund be claimable of less amount than five rupees.

Tables of rates to be hung up at certain places.

121. Tables of the town-duties to be levied under this Act shall be printed in the English, Guzaráthí and Maráthí languages, and shall be kept hung up in a conspicuous position at the several railway-stations, bandars, wharves, landing-places and piers at which such town-duties are leviable.

Tax on Fire Insurance Companies.

Payments by Insurance Companies.

122. Every Insurance Company carrying on business in Bombay, or having an agency for such purpose, and which insures from fire any property in the city of Bombay, shall pay annually to the Corporation—by way of contribution towards the protection of the city from fire—a sum of not less than five hundred rupees and not exceeding one thousand rupees, to be determined by the Town Council.

The said payments shall be made half-yearly, in advance, and every amount due from an Insurance Company to the Corporation in pursuance of this Act shall be deemed to be a specialty-debt due from the Company to the Corporation, and to be recovered accordingly.

Return of amount insured in city to be made on first day of September in each year.

123. Every Insurance Company insuring property from fire in the city of Bombay shall, on the first day of September in every year, make a return to the Municipal Commissioner, in such form as he may require, of the gross amount insured by it in respect of property in the city.

There shall be annexed to the return so made a declaration made by the secretary or other officer performing the duties of secretary of the Company by whom it is made, stating that he has examined the return with the books of the Company, and that to the best of his knowledge, information and belief, it contains a true and faithful account of the gross amount of the sums insured by the Company to which he belongs in respect of property in the city of Bombay.

The return so made shall be the basis upon which the Town Council shall determine the amount to be paid by each Company for the then current year within the minimum limit of five hundred rupees and the maximum limit of one thousand rupees as aforesaid.

Penalty on Insurance Companies not making return.

124. If any Insurance Company makes default in making such return to the Municipal Commissioner as required by this Act, it shall be lawful for the Town Council to determine the amount to be paid by any such Company for the then current year at the maximum rate authorized by this Act.

Collection of Rates and Taxes.

Bill to be presented.

125. When any rate or tax shall have become due, the Commissioner shall, with the least practicable delay, cause to be presented to the person liable to the payment thereof a bill for the sum due, or the first instalment thereof if payable in instalments.

The bill shall contain a statement of the period, and a description of the property or thing, for which the rate or tax is charged, and if it be for any tax, it shall also contain a notice of the time within which an appeal against such tax may be preferred.

Notice of demand.

126 If the bill is not paid by the person liable to pay the same within fifteen days from the presentation thereof, the Commissioner may cause to be served upon him a notice of demand in the form contained in the schedule (C) to this Act, or to the like effect, and if he do not, within fifteen days from the service of such notice of demand, pay the sum due, or show sufficient cause for non-payment of the same to the satisfaction of the Commissioner, and if no appeal shall have been preferred, such sum with all costs may be levied by distress and sale of the goods and chattels of the defaulter;

Distress.

or if the defaulter be the occupier of any house, building or land in respect of which a rate is due, by distress and sale of any goods and chattels found on the premises under a warrant in the form in the schedule (D), or to the like effect, to be issued for that purpose by the Commissioner.

For every notice of demand under this section which the Commissioner shall cause to be served upon any person, a fee not exceeding one rupee, the amount of which shall be in each case fixed by the Commissioner, shall be paid by such person.

Such fee shall be added to the amount of the rate in respect of which the notice is given, and if not duly paid shall be levied in the same manner as such rate may be levied.

Appeals to Chief Presidency Magistrate.

127. Appeals against any rate or tax charged under the provisions of this Act shall be heard and determined by the Chief Presidency Magistrate.[a]

But no such appeal shall be heard unless the amount of the rate or tax has been deposited with the Commissioner, and unless complaint has been previously made to the Commissioner as hereinbefore provided.

Time of appeal.

128. Every such appeal shall be commenced within ten days after the accrual of the cause of complaint, which shall in respect of any rate be deemed to accrue on the date of the certificate of the Commissioner in the assessment-book, or, in case of any subsequent amendment of the said book, under the provisions of section 81 of this Act, upon the receipt by the person aggrieved

[a] See Bombay Act No. IV of 1876.

of notice of such amendment; and in respect of any tax the cause of complaint shall be deemed to accrue upon the presentation to the person aggrieved of a bill for the sum claimed from him.

Second.—In the event of the amount of any rate or tax being increased, decreased or remitted, the Commissioner shall levy the amount of such rate or tax, or grant a refund accordingly.

Assessment and adjudication of appeal when final

129. The assessment by the Commissioner of any rate or tax when no complaint or appeal therefrom is made as hereinbefore provided, and the adjudication of any appeal under section 127 of this Act, shall be final.

Inventory.

130. The officer charged with the execution of a warrant of distress shall make an inventory of the goods and chattels seized under any such warrant, and shall at the same time give a notice in writing, in the form contained in the schedule (E) annexed to this Act, to the person in possession thereof at the time of the seizure, that the said goods and chattels will be sold as therein mentioned.

Notice of distress

Sale.

131. If the warrant is not in the meantime discharged or suspended by the Commissioner, the goods and chattels seized shall be sold under the orders of the Commissioner, who shall apply the proceeds, or such part thereof as may be necessary, in discharge of the said arrears and costs, and the surplus, if any, shall be returned on demand to the person in possession of the goods and chattels at the time of the seizure.

Fees.

The fees payable upon distraints under this Act shall be such as are set forth in the table of fees in the schedule (F) annexed to this Act.

Goods of defaulter distrainable wherever found.

132. The goods and chattels of any person from whom any rate or tax is due may be distrained, wherever the same may be found, for default in the payment of the money due from such person.

Person liable to rate, leaving city during quarter, may be made at once to pay such rate up to date.

133 If, during the course of any half-year or quarter, the Commissioner shall have reason to believe that any person who, if the current half-year or quarter had come to an end, would be liable to pay any rate or tax for that half-year or quarter, is about to remove from the city forthwith, it shall be lawful for the Commissioner to declare such person liable to the immediate payment of the said rate or tax from the commencement of that half-year or quarter to the date of such declaration, and the amount of such rate or tax from such time due from such person shall be leviable forthwith, in like manner as the said rates and taxes are in ordinary cases leviable.

Property-rates recoverable from occupier, although he be not liable for them,

134. If the sum due on account of any property-rate remains unpaid after the bill for the same has been duly presented to the person liable to pay the same, and the said person be not the occupier for the time being of the house, building or land in respect of which such rate is due, the Commissioner may demand the amount from the occupier, and on non-payment thereof may

under certain circumstances.

recover the same by distress and sale of any goods and chattels found on the premises.

In any such case, the occupier may deduct from the next and following payments of his rent the amount which may be so paid by or recovered from him.

Provided always, that no arrear of rate shall be recovered from any such occupier which has remained due for more than one year, or which is due in respect of any term for which he has not been in occupation.

Commissioner may sue instead, or on failure, of distress.

135. Instead of proceeding by distress and sale, or in case of failure to realize by distress the whole or any part of the sum due in respect of any rate or tax, the Commissioner may, on behalf of the Corporation, with the sanction of the Town Council, sue the person liable to pay the same in any Court of competent jurisdiction.

V.—Application of Municipal Property and Funds.

Application of municipal property and funds

136. All property vested in the Corporation and all funds received or raised by them in accordance with the provisions of this Act, shall be applicable to the purposes expressly authorized by this Act.

Objects to which municipal property and funds applicable

137. The purposes expressly authorized by this Act shall be held to include the objects connected with the public safety, health, instruction and convenience hereinafter specified; that is to say:—

Public Safety.

(1). Defraying the whole or a proportion of the charges of every description of the Police who may be employed for the security of life and property within the city, as the Government may direct after consideration of the representations of the Police Commissioner and the Corporation, to whom the estimates of the Police Commissioner shall be submitted annually for their opinion through the Municipal Commissioner.

(2). Provision for lighting the public streets, places and buildings, for the entertainment of a fire-brigade for extinguishing fires and protecting life and property in case of fire, and for the securing or removal of dangerous places, buildings, trades and practices.

Public Health.

(1). Defraying the whole or a proportion of the total cost of the construction and maintenance of hospitals, dispensaries and lunatic asylums; and of the charges of vaccination, registration of births, deaths and marriages, taking a census, and such other sanitary measures as the Corporation may think fit.

(2). Construction and maintenance of public markets and slaughter-houses,

latrines, privies, urinals, drains, sewers, drainage-works, water-works, baths, wash-houses, drinking-fountains, tanks and wells, dams, parks and gardens, reclamation of unhealthy localities and the like.

(3). Cleansing and watering of streets, sewers, scavenging, removal of noxious vegetation, and generally the abatement of all nuisances.

(4). Regulation of offensive trades, and burial and burning grounds, and the removal of and providing sites for the same.

Public Instruction.

(1). Defraying such portion of the cost of providing public instruction within the limits of the city as the corporation may think fit after consideration of the representations of the Director of Public Instruction, by whom estimates shall be submitted annually to the corporation through the Municipal Commissioner.

(2). Contributions towards the erection and maintenance of public libraries and museums.

Public Convenience.

(1). Construction, maintenance and alteration of streets, bridges, causeways, culverts and the like; regulation of buildings, naming streets and numbering houses, planting trees, and removal of obstructions and projections.

(2). Erection and maintenance of public halls, offices, police-stations, lock-ups and other needful buildings.

(3). Survey of houses and plans; and

(4). Generally to all objects connected with the public safety, health and convenience.

Contributions towards public festivities, &c.

The corporation is also hereby expressly authorized with the previous sanction of Government to contribute from time to time from the municipal fund such sums as it may deem fit towards public festivities and rejoicings, or for the purpose of entertaining, or presenting addresses to, distinguished visitors to the city.

Payment of pensions, &c.

The payment of pensions or compassionate allowances to retired or discharged officers or servants of the corporation, at such rates, or subject to such rules, as may, from time to time, be sanctioned by the corporation, shall also be deemed to be a purpose expressly authorized by this Act.

Funds to be provided by corporation for certain purposes.

138. It shall be the duty of the corporation, and they are hereby required, to provide such funds as may be necessary for the maintenance of the Police and the protection of the city from fire, and for the purpose of making adequate and suitable provision for the cleaning and surface-draining of the city, and for maintaining a proper and sufficient water-supply.

Annual ex-

The annual expenses of the Police of the city of Bombay, and of the pro-

Expenses of Police, &c., to be determined by Government.

tection of the city from fire, shall be from time to time determined by Government, and the amounts so determined, or, in the case of the Police, any portion thereof, shall, on the requirement of Government, be paid out of the municipal fund.

Fund where to be lodged and drawn against.

139. It shall be lawful for the Town Council to deposit at interest with the bank which is now or may hereafter be appointed to conduct the business of Her Majesty's treasury at Bombay, any surplus-funds in their hands which may not be required for current charges, and to invest such funds in Government-securities, in the names of the chairman of the Town Council and the Municipal Commissioner for the time being, and from time to time to dispose of such securities as may be necessary.

Sums expended on Vehar water-works in excess of certain sum to be defrayed from public revenue.

140. Whereas a sum in excess of the original estimate of twenty-five lákhs of rupees has been expended in the construction of the Vehar lake and water-works, and in purchasing the interests of the tenants or occupants of the site of the said lake and works, and whereas it has been agreed that one-half of all sums so expended in excess of twenty-five lákhs of rupees shall be defrayed out of the public revenue, it is hereby enacted that all sums in excess of rupees forty-five lákhs forty-two thousand three hundred and ninety-four, expended for the Vehar water-works as aforesaid, shall be held to have been defrayed out of the public revenue, and that the sum of rupees thirty-seven lákhs thirty thousand and fifty-three shall be held to have been the sum due to Government on account of the said works on the 1st day of July 1863;

Sum due to Government on account of works on 1st July 1863, how paid.

and the said sum of rupees thirty-seven lákhs thirty thousand and fifty-three, with simple interest at the rate of four per cent. per annum from the 1st day of July 1863, together with all sums advanced by Government in connection with the said works since the said 1st day of July 1863, with simple interest thereon, at the rate of four per cent. per annum, shall be repaid by the Commissioner on behalf of the Corporation to the Government, by monthly instalments of fourteen thousand six hundred rupees, to be paid on the first day of every month, until the whole of the said debt to Government be liquidated, into Her Majesty's treasury, or into the account of Her Majesty's treasury in any bank that may now or hereafter be appointed to conduct the business of Her Majesty's treasury in Bombay.

Second.—The annual sum of the monthly instalments aforesaid shall be appropriated,—

first, to the payment of the interest accrued on account of the said sum of rupees thirty-seven lákhs thirty thousand and fifty-three from the 1st day of July 1863;

secondly, to the payment of interest on all sums subsequently advanced as aforesaid; and

lastly, to the payment of all sums subsequently advanced as aforesaid, and then to the liquidation of the said principal sum of rupees thirty-seven lákhs, thirty thousand and fifty-three:

Provided that all sums received by Government on account of the said water-works, under the provisions of sections 30 and 31 of Act XXV of 1858, and section 7 of Act II of 1865, and section 3 of Act III of 1870, after the said 1st day of July 1863 and before this Act comes into operation, shall be credited to the said Corporation as having been paid on their account and received by Government in liquidation of the amount payable as aforesaid by the Commissioner on their behalf, and provided that, if the Commissioner shall at any time fail, on behalf of the Corporation, to pay to Government any of the monthly instalments hereby prescribed, and shall, after notice in writing signed by one of the secretaries to Government, requiring payment of the same, has been served upon him, and has been published in the Government Gazette for at least two months, still fail to make such payment on behalf of the Corporation, the said Vehar water-works and all the moveable and immoveable property appertaining thereto, hereby vested in the Corporation shall cease so to vest, and shall forthwith become vested in Government in trust for the purposes for which it was previously vested in the Corporation. Proviso.

141.—[*Repealed by Act No. XII of 1876.*]

VI.—General Conservancy.

Water-supply.

142. The Vehar water-works and the business thereof shall be exclusively managed and conducted by the Commissioner, who shall be bound to keep the said water-works and the property pertaining thereto in good repair and effective for the proper purposes of the same; Commissioner to manage and maintain works.

and the Commissioner shall make such extensions, improvements and alterations in the said water-works and property as may be necessary, and for such purposes may, with the sanction of the Corporation, expend such sums as may be necessary out of the municipal fund, subject, however, to such prohibitions and limitations as the Governor in Council may in any case think fit to prescribe.

143. It shall be lawful, whenever the same may be necessary in order to repair, improve, extend, renew or examine the lake, conducting pipes or any other portion of the water-works aforesaid, for the Commissioner and his servants, having authority either general or special in writing from the Commissioner, at all reasonable times, to enter upon and pass through any land or other property adjacent to the same or in the neighbourhood thereof, in whomsoever such property may be vested, and to convey into and through the said Access to land and conduits, &c.

land or other property such materials, tools and instruments as may be necessary for the purposes aforesaid;

and any person obstructing such entrance or passage, or conveyance, shall, on conviction before any Magistrate, be liable to a fine not exceeding fifty rupees, commutable, if not paid, to one month's simple imprisonment:

Proviso. Provided that all damage done to land or other property by the said Commissioner or his servants in the exercise of the powers by this section conferred, shall be made good by the Commissioner on behalf of the Corporation to the owners of the same.

Building, &c., within limits of water-shed prohibited.

144. It shall not be lawful for any persons to erect any building, shed or other structure, for the purposes of dwelling or manufacture, trade or agriculture, within the limits of the water-shed of the Vehar lake, as defined in a plan marked **B**, and deposited in the office of the secretary to the Government of Bombay, and authenticated by the signatures of the Governor and Members of Council, or to extend or alter any such structure heretofore existing within the said limits, or to apply the same to purposes different from those to which it has heretofore been usually applied;

and it shall not be lawful within the said limits for any person to carry on any operation of manufacture, trade or agriculture, in any manner, or to do any act whatsoever, whereby any injury may arise to the said lake, or the waters of the same may be fouled or rendered less wholesome;

and any person so offending shall, at the prosecution of the Commissioner, on behalf of the Corporation, be liable, on conviction before any Magistrate, to imprisonment of either description for any period not exceeding one month, or to a fine of one hundred rupees, or both;

and it shall further be lawful for the Magistrate, in case of any such conviction as aforesaid, to order the immediate removal of such building or structure, and the discontinuance of such operation or use of the land as aforesaid; and in case of disobedience to remove such structure and to prevent such operation, use or act, and for any opposition to such removal or other disobedience of such order as aforesaid, the offender shall be liable in each instance to imprisonment of either description for any period not exceeding one month, or to a fine of one hundred rupees, or to both.

Inspection of works by Government-officers.

145. The Commissioner shall at all reasonable times permit all persons appointed by Government on that behalf to enter upon, and inspect, and take account of, all the property in water-works by this Act vested or which in virtue of the same may become vested in the Corporation;

and the person so appointed as aforesaid shall be entitled to and enter upon and pass through any property adjacent to, or in the neighbourhood of, the

said Vehar lake and water-works or any part thereof, subject to the same conditions as the Commissioner;

and if from the report of any person appointed as aforesaid it shall appear that the said lake or water-works or any portion of the same are not in a sound and effective condition, it shall be lawful for Government by notice, under the signature of a secretary to Government, to call upon the said Commissioner on behalf of the Corporation to repair, improve and make effective the said works or lake or portion thereof within such a period as may seem reasonable, and the said Commissioner shall be bound within such period to comply with such requisition, failing which, Government may immediately, on the expiration of such period, order the said lake or works or portion thereof to be repaired, improved and made effective in such manner and by such means as shall seem fit, and the Commissioner shall, on behalf of the Corporation, in any such case, be bound forthwith to pay to Government the cost of the works so performed, in addition to any other sums payable by him on their behalf.

Application of preceding four sections to any water-works by Government notification.

146. It shall be lawful for the Government, to extend, by notification in the Government Gazette, the application of the four sections last preceding to any water-works other than the Vehar water-works, wherever situated, which may at any future time be constructed for, or in connection with, the supply of water to the city.

Construction and maintenance of works for supply of water.

147. The Commissioner may cause all existing public tanks, reservoirs, cisterns, wells, aqueducts, conduits, tunnels, pipes, pumps, drinking-fountains and other water-works used for the supply of water to the inhabitants or for the other purposes mentioned in this Act, to be continued, maintained and supplied with water, or he may with the consent of the Town Council and the sanction of Government, close up such works and substitute other such works, and may cause them to be maintained and supplied with water; and the Commissioner from time to time, with the consent of the Corporation and of Government, may construct aqueducts for bringing water into the city, and may provide any number of new tanks, reservoirs, cisterns, wells and other such water-works for the purposes aforesaid.

Construction of aqueducts, &c.

148. For the purpose of constructing aqueducts for bringing water into the said city from any place without the said city, or for the purpose of making sewers, drains, culverts, gutters or water-courses to communicate with or empty themselves into any public sewer, drain, lake, tunnel, culvert or water-course without the said city, it shall be lawful, whenever a plan for any such aqueduct, sewer, drain, culvert, tunnel, gutter or water-course shall have been approved by the Government, for the Commissioner and his officers, with such assistants as they may require, to exercise, in the construction of such aqueduct, sewer, drain, culvert, tunnel, gutter or water-course

throughout the line of country through which the same is to run, all the powers which by this Act it is lawful for him to exercise within the said city of Bombay, and which may be necessary for the construction thereof, without being subject to any action or molestation whatever for so doing, and it shall also be lawful for any Magistrate of the first class of any district through which the said aqueduct, sewer, drain, culvert, tunnel, gutter or water-course is to run, to exercise in respect thereof the like power and jurisdiction within the limits of his own district as it is by this Act lawful for a Presidency Magistrate to exercise in respect of any work to be executed by the said Commissioner within the said city.

When connections from Corporation water-works may be made.

149. Connections for the supply of water from any water-works belonging to the Corporation shall not be made, excepting (1) on application of the tenant, or on joint application of all the tenants when there are more than one, with the assent of the owner in either case; (2) on application by the owner alone.

When making of connection may be compulsory.

But it shall be lawful for the Commissioner, on the advice of the executive officer of health, to require the owner of any chaul or house ordinarily in the occupation of tenants, and situate within one hundred feet of a public water-main, to make a connection therewith adequate to the supply of a sufficient amount of water for the requirements of such chaul or house, and of the persons ordinarily occupying the same, or in default to levy water-rate from such owner in respect of such house or other property as if such connection had been made on his application.

Injuring water-works or diverting or wasting water.

150. Whoever wilfully or carelessly injures any water-works belonging to the Corporation, or unlawfully draws off, diverts or takes water from any such water-works, or from any waters or stream belonging to the Corporation by which such water-works are supplied, shall be punished with fine which may extend to one hundred rupees.

Commissioner may set apart bathing-places, &c.

151. The Commissioner may set apart sufficient public places or any part of the sea-shore (not being private property) for the purpose of being used as bathing-places, or for the washing or drying of clothes; and may also provide or set apart a sufficient number of convenient tanks or runs of water for the inhabitants to bathe in, and may also set apart tanks or reservoirs or runs of water for washing animals or clothes and drying clothes, and for all purposes connected with the health, cleanliness and comfort of the inhabitants.

Water fouled by offensive trades.

152. Whoever, being the proprietor or manager of any gas-works, or being engaged or employed in the manufacture or supply of gas, or being the proprietor or manager of any place where an offensive trade or manufacture, within the meaning of section 225 of this Act is carried on, wilfully does any act connected with the said business whereby the water in any tank, reservoir, well, cistern, conduit, aqueduct or other water-works belonging to the Corpo-

ration, or used for drinking purposes, is fouled or corrupted, shall be punished with fine which may extend to one thousand rupees, and to a further penalty not exceeding five hundred rupees for every day while the offence is continued after twenty-four hours' notice in writing from the Commissioner on this behalf;

and the Commissioner may, after twenty-four hours' notice in writing, lay open and examine any pipes, conduits and works belonging to such person;

and if upon such examination it appears that the water has been fouled or corrupted by anything proceeding from or contained in the pipes, conduits or works examined, the expenses of such examination shall be paid by the person to whom such pipes, conduits or works belong, or under whose management or control they may be, and be recoverable from him as hereinafter provided.

But if it appear that the water has not been so fouled or corrupted, then such expenses, and all reasonable damages occasioned by the examination, shall be paid by the Commissioner from the Municipal fund.

In all cases when land belonging to third parties is required for the purpose of carrying out the provisions of this section, such purpose shall be and be deemed to be a public purpose within the meaning of Act X of 1870.

Fouling water by bathing, washing, &c.

153. Whoever, except as permitted by the Commissioner, under section 151 of this Act,

bathes in any stream, tank or reservoir, well, cistern, conduit or aqueduct belonging to the Corporation, or

washes, or causes to be washed therein, any animal or any thing whatever, or

throws, puts or casts, or causes to enter, therein any animal, or anything, or

causes or suffers to run, drain or be brought thereinto, anything that is, or may be, a nuisance, or

does anything whatsoever whereby any such water shall be in any degree fouled or corrupted, or

shall wash or dry clothes in any public place or on any part of the sea-shore not set apart under the said section for the said purpose, or

whoever shall steep in any tank or ditch within municipal limits any animal, vegetable or mineral matter likely to render the water of such tank or ditch offensive or nuisance, shall be liable, on conviction before a Magistrate, to the penalty provided for fouling the water of any public spring or reservoir by section 277 of the Indian Penal Code.

Construction, paving and repairing of Streets.

Power to make and improve streets.

154. The Commissioner, with the sanction of the Corporation, may lay out and make new public streets and roads, and may build and construct bridges and tunnels, and may turn, divert or discontinue or stop-up any public street

or road, and may widen, open, enlarge or otherwise improve any such street or road, making due compensation from the municipal fund to the owners or occupiers of any land, house or building which may be required for any such purposes:

Provided that nothing in this Act shall authorize the Commissioner or the Corporation to grant the use of any public street to any person or Company for the purpose of laying thereon any tramway or railway or the like without the previous sanction of Government.

Power to sell streets.

155. Whenever any street vested in the Corporation shall be discontinued and stopped-up under the provisions of section 154 of this Act, the Commissioner, with the sanction of the Corporation, may, on their behalf, sell the land or such part thereof as shall not be required for the purposes of this Act, and the proceeds of such sale shall be paid to the credit of the municipal fund.

Power to agree for purchase of land for improving street.

156. The Commissioner may, with the sanction of the Town Council, agree with the owners of any land for the absolute purchase thereof for the purpose of laying out and making new streets, or of widening, enlarging or otherwise improving any of the public streets, or for any purpose whatever connected with the conservancy or general improvement of the city.

Power to take land adjoining new streets for building purposes

157. In laying out or making any new streets, or in turning, diverting, widening, opening, enlarging or otherwise improving any public streets, in addition to the land required for the carriage-ways and footways thereof, the Commissioner may, with the sanction of the Town Council, also purchase on their behalf the land necessary for the houses and buildings to form the said street, and may with the like sanction sell and dispose of the same, with such stipulations and conditions as to the class and description of houses or buildings to be erected thereon as he shall think fit:

Compensation for damage to adjoining land.

Provided that, if any land be taken under the provisions of this Act, compensation shall be made to the owners for any damage which may be done thereby to any adjoining land or buildings of such owner, and such compensation shall, in case of dispute, be ascertained and determined as hereinafter provided.

Private persons laying out new streets.

158. Every person intending to make or lay out any new street shall give notice in writing thereof to the Commissioner, such notice to be accompanied by plans and sections showing the intended level, direction and width of such street; the means of drainage and the height of the buildings to be erected on each side, and the level, direction, width and means of drainage of every such street shall be fixed or approved by the Commissioner;

and whoever lays out, makes or builds upon, any such street otherwise than in accordance with the level, width, direction, height and means of drainage so fixed or approved, or the other provisions of this Act, shall be punished with fine which may extend to five hundred rupees;

and the Commissioner may, with the sanction of the Town Council, cause any such street laid out or made in a direction, or at a level or width, or with drainage, otherwise than in accordance with the level, direction, width or drainage so fixed or approved as aforesaid, to be altered, or may cause any building not erected of a height in accordance with the height so approved or fixed as aforesaid, or any building erected in or on the side of any such street otherwise than in accordance with such level, width, direction and drainage, or other provisions as aforesaid, to be altered, or if necessary removed, and the expense thereby incurred shall be paid to him by the offender, and be recoverable as hereinafter provided.

If no disapproval of the level, width, direction, drainage or height proposed be signified by the Commissioner to the person or persons giving such notice as last aforesaid, within six weeks after the receipt by the Commissioner of such notice, then the intended street may be laid out and made upon the level, in the direction, of the width, of the height, and with the drainage specified in the notice and the accompanying plan and section :

Provided always that the aforesaid authority of the Commissioner to alter and remove (as the case may be) the said streets and buildings shall be exercisable by him whether or not such penalty as aforesaid shall have been recovered, or proceedings instituted for the recovery of the same. Proviso.

159. If any street (not being a public street) or any part thereof, be not levelled and drained to the satisfaction of the Commissioner, he may, by notice in writing, call upon the respective owners of the houses, buildings or lands fronting, adjoining or abutting thereto or thereon, or forming the same, to level and drain the same as the Commissioner shall deem necessary and to his satisfaction within a time to be specified in such notice, Paving, &c., of private streets.

and if any such owner shall fail to comply with such notice, he shall be liable to a penalty not exceeding rupees fifty, and to a penalty of rupees five for every day until such notice is complied with,

and upon non-compliance the Commissioner may, whether any such penalty shall have been imposed or not, if he thinks fit, execute the works mentioned or referred to therein, and the expenses incurred by him in so doing shall be paid by the owners in default, in such proportion as shall be settled by the Commissioner, or in case of dispute in such manner and proportion as shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses, and such expenses shall be recoverable as hereinafter provided :

If any such street shall be levelled, paved, metalled, flagged, channelled and sewered at the expense of the owners, to the satisfaction of the Commissioner, such owners shall have a right to require that the street shall be

declared a public street, to be from time to time repaired by the Commissioner out of the municipal fund.

Certain streets deemed public and repaired by Commissioner

160. If any street (not being a public street) be levelled, paved, metalled, flagged, channelled and sewered to the satisfaction of the Commissioner, he may, by notice in writing, put up in any part of such street, declare the same to be a public street, and thereupon the same shall become a public street, and be from time to time repaired by him out of the municipal fund; unless within one month after such notice in writing shall have been put up in manner aforesaid, the owner of such street, or any one of the owners, shall, by notice in writing to the Commissioner, object thereto.

Proviso.

Width of new public street.

161. No new public street shall be less than twenty-four feet in width, including the footpaths, if any, and no steps or projections of any kind shall extend on to the street.

Building Regulations.

House or building may be set forward for improving line of public street.

162. The Commissioner may, with the sanction of the Town Council, allow any house or building to be set forward for improving the line of any public street in which such house or building is situated, upon such terms as may be deemed expedient, and the sanction of the Town Council shall be a sufficient conveyance to the owner of such house or building of any land, the property of the Corporation, upon which the house or building so set forward may be built.

Projecting houses when taken down, to be set back.

163. When any house or building any part of which projects beyond the line which may be laid down by the Executive Engineer, with the consent of the Municipal Commissioner, as the future regular line of the public street in which such house or building is situate, or beyond the front of the house or building on either side thereof, has either entirely or to any considerable extent been burned down or taken down, whether by order of the Municipal Commissioner under section 200 of this Act, or otherwise, or has fallen down, the Commissioner may, with the consent of the Town Council, require the same, when being rebuilt, to be set back to or towards the line of the street, or the line of the adjoining houses or buildings, and the portion of land added to the street by so setting back the house or building shall thenceforth be deemed part of the public street and be vested in the Corporation:

Proviso

Provided always that the Corporation, after possession of the ground has been taken, shall make full compensation to the owner of any such house or building for any damage he may thereby sustain; and if any dispute shall arise touching the amount of such compensation, the same shall be ascertained and determined in the manner hereinafter provided.

Roofs and

164. The external walls and covering of roofs of huts or other buildings

erected or renewed after this Act comes into operation shall not be made of wood, cloth, canvas, grass, leaves, mats or other inflammable materials, unless with the consent in writing of the Commissioner: External walls not to be of combustible materials.

and whoever shall make any external wall or covering of roof of such materials, or suffer any wall or covering of roof made of such materials to continue, contrary to the provisions herein contained, and who shall not remove or alter the same to the satisfaction of the Commissioner within one month after notice given to him for that purpose by the Commissioner, shall be liable to a penalty not exceeding ten rupees, and to a further penalty not exceeding five rupees for every day after conviction during which the offence is continued.

165. Before beginning to build or rebuild, or to make any alteration to a house involving the removal or re-erection entirely, or in greater part, of any of the main walls of the same, the person intending so to build, rebuild or alter such house shall give to the Commissioner notice thereof in writing, stating where such building is intended to be erected, or to what extent the same is to be rebuilt or altered, and shall, if required so to do by the Commissioner, furnish him with a plan showing the levels at which the foundation and lowest floor of such house are proposed to be laid by reference to some level ascertained under the direction of the Commissioner, and the intended situation and construction of the privies to be used in connection with such house, and a statement in writing showing the means of draining the building and land, the proposed means of ventilation, the height of the building, the number and height of the floors, the materials to be used and the thickness of the walls and roof. Notice to Commissioner of new buildings, &c.

166. If within thirty days from delivery at the office of the Municipal Commissioner of the notice required by the preceding section the Commissioner shall not signify his disapproval of the proposed building or rebuilding, or alteration, or shall not require a plan and statement as aforesaid or further particulars as to any proposed rebuilding, the person may proceed with the building or rebuilding or alteration of his house. Procedure on receipt of notice.

If the Commissioner shall require a plan and statement as aforesaid, the Commissioner may, within thirty days after receiving the plan and statement as aforesaid, signify his disapproval of the proposed levels or privies or any other matters required to be mentioned in the statements referred to in the last preceding section, and may fix other levels and privies in lieu thereof, and may require the ventilation, drainage, height of floors, materials and thickness of the walls and roof to be altered in accordance with any bye-law made under the provisions of this Act, and he may require the said house to be set back or forward for the improvement of the street as he may think fit. If

the Commissioner shall require further particulars as to any rebuilding, the same shall be furnished by the person intending to rebuild before the rebuilding is proceeded with.

Houses built, &c., without notice or contrary to provisions of Act may be altered by Commissioner.

167. If the building or rebuilding of any house, or any such alteration of the same as is aforesaid, be begun or made without sending such notice, or without furnishing the Commissioner, if required, with a plan and statement as aforesaid, or otherwise than in conformity with the provisions of this Act and the requirements of the Commissioner as aforesaid, the Commissioner may, with the consent of the Town Council, cause such building to be altered or demolished as the case may require, and the expense thereby incurred shall be paid by the person failing to comply with the provisions aforesaid, and shall be recoverable as hereinafter provided.

Liability to penalty.

If the Town Council does not consider it necessary to alter or demolish the building, the person failing to comply with the provisions aforesaid shall be liable to a penalty not exceeding one thousand rupees, and, if the Commissioner shall have required a plan and statement or further particulars as aforesaid, to an additional daily penalty not exceeding fifty rupees until such plan and statement or such further particulars be furnished.

In any case in which any building is altered or demolished under this section, the Commissioner may, with the consent of the Town Council, require the said building to be set back in accordance with the provisions of section 163 before the same is altered or rebuilt.

Parties may proceed with buildings on failure of Commissioner to signify disapproval.

168. If the Commissioner fail to signify in writing his approval or disapproval of the levels and particulars mentioned in section 165, and to fix other levels and give other directions within thirty days after receiving such statement and plan or particulars as aforesaid, the person giving such statement and plan or particulars may, notwithstanding anything hereinafter contained, proceed to build, rebuild or alter the house therein referred to according to the levels and particulars furnished by him: Provided that such building be otherwise in accordance with the provisions of this Act.

Gas and water-pipes how laid.

169. All pipes for the conveyance of gas shall be laid at the greatest practicable distance from the nearest part of any water-pipe, and wherever the width of the road will allow, shall be laid at the distance of four feet at least from the nearest part of any such water-pipe, unless in case where it shall be unavoidably necessary to lay the gas-pipe across or nearer to any water-pipe, in which case the said gas-pipe shall, wherever practicable, be laid over and above the said water-pipe at the greatest practicable distance therefrom, and shall form therewith a right angle, or as near thereto as the situation will admit;

and in every such case the gas-pipe so crossing shall be at least nine feet

in length, so that no joint of any gas-pipe shall be nearer to any water-pipe than four feet at the least where the width of the road will admit, and every such gas-pipe so crossing the water-pipe shall for the whole length thereof be be sufficiently added in with good sound clay or other fit materials of a proper consistence, and well worked and rammed into the trench all round the said gas-pipe; also no gas or water-pipe shall be laid in a drain or on the surface of an open gully;

and if any pipe for the conveyance of gas or water be laid in any respect contrary to the provisions of this section, the person ordering the same to be laid, or to whom the management of laying the same is entrusted, shall be liable to a penalty not exceeding one thousand rupees;

and the Commissioner may cause such alteration to be made with respect to such pipe as he may think necessary for the purposes of this Act, and the expenses thereof shall be paid by the person liable to the said penalty, and shall be recoverable as hereinafter provided.

Situation of gas and water-pipes to be altered at expense of Corporation.

170. Whenever the Commissioner may deem it necessary for the purposes of this Act to raise, sink or otherwise alter the situation of any water-pipe or gas-pipe, or other water-works or gas-works, laid in any of the streets, he may, from time to time, by notice in writing, require the person to whom any such pipes or works belong, or under whose control they may be, to cause forthwith, or as soon as conveniently may be, any such pipes or works to be raised, sunk or otherwise altered in position in such manner as the Commissioner may direct:

Proviso.

Provided that such alteration be not such as to prevent the water or gas from flowing or passing as freely and conveniently as may be, having regard to the provisions of this Act, and the expenses attending such raising, sinking or altering, and full compensation for the damage done thereby, shall be paid by the Commissioner to the persons to whom such pipes or works belong.

And if any dispute shall arise touching the amount or apportionment of such compensation, the same shall be ascertained and determined in the manner hereinafter provided for the settlement of disputes and expenses.

If owner, &c., neglect to alter, Commissioner may cause same to be done.

171. If the person to whom any such pipes or works belong, or under whose control they may be, do not proceed forthwith, or as soon as conveniently may be, after the receipt of such notice as in the last preceding section mentioned, to cause the same to be raised, sunk or altered in such manner as the Commissioner may require, the Commissioner may himself cause such pipes or works to be raised, sunk, or altered as he may think fit:

Provided that such alteration be not such as to prevent the water or gas from flowing or passing as freely and conveniently as may be, having regard to the provisions of this Act.

Power of Commissioner as to existing huts.

172. Whenever the Commissioner, after consulting the Health-officer, is of opinion that any huts or sheds, whether used as dwellings or stables or for any other purposes, are by reason of the manner in which the huts or sheds are crowded together, or of the want of drainage and the impracticability of scavengering, attended with risk of disease to the inhabitants of the neighbourhood, the Commissioner may cause a notice to be affixed to some conspicuous part of such hut or shed, requiring the owner or occupier thereof, or the owner of the land on which such hut or shed is built, within such reasonable time as may be fixed by the Commissioner for that purpose, to remove, alter or otherwise improve the same as he may deem necessary.

And in case such owner or occupier shall refuse or neglect to remove, alter or improve the same within the time mentioned in such notice, he shall be liable to a penalty not exceeding rupees fifty, and to a penalty not exceeding rupees five for every day until the said hut or shed shall be so removed, altered or improved; and it shall be lawful for the Commissioner, if he shall think fit so to do, to cause the said hut or shed to be removed, altered or improved, as, after consulting the Health-officer, he may deem necessary.

If such hut or shed be pulled down, the Commissioner may cause the materials thereof to be sold, if such sale can be effected; and the proceeds, after paying all expenses, shall be paid to the owner of the hut or shed, or, if the owner be unknown or the title disputed, shall be held in deposit by the Commissioner until the person interested therein shall obtain the order of a competent Court for the payment of the same:

Proviso.

Provided that if the owner or occupier of any hut or shed shall (after the same has been removed by the order of the said Commissioner) re-erect any hut or shed upon the ground from which the same has been so removed as aforesaid, he shall be liable to a penalty not exceeding rupees fifty, and the Commissioner may remove the same without giving any notice to the owner or occupier thereof.

Erection of new huts to be under control of Commissioner.

173. It shall not be lawful for any person to erect any range or block of huts or sheds, or to add any hut or shed to any range or block already existing, without previous notice to the Commissioner, and the Commissioner may require such huts or sheds to be built so that they may stand in regular lines, with a free passage or way in front of and between every two lines, of such width as, after consulting the Health-officer, he may think proper for ventilation and to facilitate scavengering, and with such number of privies and with such means of drainage as to him may seem necessary, and at such a level as will admit of such drainage, and with a plinth at least two feet above the level of the nearest public road.

And if any such huts or sheds be built without giving such notice to the Commissioner, or otherwise than as required by the Commissioner, the Commissioner may give notice to the owner or occupier thereof, or of the ground upon which the same are erected or being erected, by affixing a notice to some conspicuous part of some one of such huts or sheds, to take down and remove the same within one month, or to effect such alterations as, after consulting the Health-officer, he may deem necessary;

and if such huts or sheds be not taken down, removed or altered as aforesaid according to such notice, the owner or occupier of the same or of the land upon which the same are erected or being erected shall be liable to a penalty not exceeding fifty rupees, and to a further penalty not exceeding five rupees for every day until the said huts or sheds shall be completely removed or altered;

and it shall be lawful for the Commissioner, if he shall think fit so to do, to cause the same to be taken down and removed, and the expense incurred in doing so shall be paid by the said owner or occupier thereof, or of the ground upon which the same shall be erected, and shall be recoverable as hereinafter provided.

Commissioner may make drains from houses not properly drained.

174. If any house or building be at any time undrained, or not drained to the satisfaction of the Commissioner by a sufficient drain or pipe communicating with some sewer, or some covered or uncovered drain, or with the sea, or some other place at which the Commissioner is empowered to empty the sewers, and if there be such means of drainage within one hundred feet of any part of such house or building, the Commissioner may give notice to the owner thereof to construct or lay from such house or building a covered drain or pipe, of such materials, of such size, at such level, and with such fall as, after consulting the executive engineer to the municipality, he may deem necessary for the draining of such house or building;

and whoever, after the expiration of the time mentioned in such notice, fails to comply with the same, shall be liable to a penalty not exceeding fifty rupees, and to a further penalty not exceeding five rupees for every day until such notice is complied with;

and the Commissioner, either before or after proceedings to recover such penalty, and whether such proceedings shall be taken or not, may construct or lay any such drain or pipe, and the expenses incurred by the Commissioner in respect thereof, if not forthwith paid by the owner, shall be recoverable as hereinafter directed.

Cesspools.

175. If no such means of drainage are within the distance mentioned in the last preceding section, then it shall be lawful for the Commissioner to give notice to the owner or owners, or one of the owners, of any such house

or building, requiring him or them, within a reasonable time to be therein specified, to make or lay a sufficient drain or pipe emptying into some covered cesspool, to be constructed by such owner or owners, of such materials, of such form, and provided with such means of ventilation as, after consulting the Health-officer, he may deem necessary, provided always that no night-soil be passed into the same,

and if the person to whom such notice is given fails to comply with the same within the time in such notice mentioned, he shall be liable to a penalty not exceeding fifty rupees and to a further penalty not exceeding five rupees for every day until such notice shall be complied with,

and it shall be lawful for the Commissioner, at the expiration of the time mentioned in such notice, and whether before or after proceedings, to recover such penalty, and whether such proceedings shall be taken or not, to do the work required by such notice, and the expense incurred by the Commissioner in respect thereof, if not forthwith paid by the owner, shall be recoverable as hereinafter directed.

Ventilation of drains sewers and cesspools

176 The Commissioner may issue, or cause to be issued, a notice, calling upon the owner of any drain, sewer, or cesspool, to provide for the same such ventilation as, after consulting the Health-officer, he may deem necessary,

and if within one week after the receipt of such notice the owner aforesaid shall fail to comply with its requisition, he shall be liable to a penalty not exceeding fifty rupees, and to a further penalty not exceeding five rupees for every day after conviction during which the offence is continued

Provided always that the Commissioner may do, or cause to be done, the work required by such notice, and the expenses incurred in respect thereof shall be recoverable as hereinafter provided

Ventilation

177 For the ventilation mentioned in the preceding section, or for the ventilation of any public drain, sewer or cesspool, the Commissioner may erect or fix to the outside of any house or building such pipes as he may deem necessary, and such pipes shall be carried to a height of not less than six feet above the highest part of the house or building, and shall be erected so as not to occasion any nuisance or inconvenience to any house or building in the neighbourhood.

Penalty for altering or injuring pipes for ventilation.

178. Whenever the pipes or appliances mentioned in the preceding sections shall have once been placed, erected or affixed, they shall not be altered or changed without the sanction of the Commissioner, and whoever shall so alter or change them without such consent first obtained, or whoever shall in any way injure, or cause the same to be injured, shall, upon conviction, be liable to a penalty not exceeding one hundred rupees for each offence.

Drains and sewers in streets to be covered with traps, &c.

179. All sewers and drains, whether public or private, shall be provided by the Commissioner, or by the persons to whom they severally belong, with proper traps or other coverings or means of ventilation.

If the owner of any private sewer or drain, whether under his house or without the house, shall within ten days after notice given to him by the Commissioner neglect or delay to provide and apply proper traps or coverings or means of ventilation as aforesaid, he shall be liable to a penalty not exceeding rupees fifty, and to a further penalty not exceeding rupees five for every day until such notice is complied with;

and the Commissioner may, either before or after proceeding to recover such penalty, or whether any such proceeding shall have been commenced or not, provide and supply the same, and the expense incurred thereby shall be paid by the owner of such sewer or drain, and shall be recoverable as hereinafter provided.

Commissioner may cause additional privies to be provided for houses.

180. In case the Commissioner shall be of opinion that any privy or privies or additional privy or privies should be provided for any house or building, the owner of such house or building shall, within fourteen days after notice in this behalf by the Commissioner, cause such privy or privies to be constructed in accordance with the requisition of such notice, and in case the requisition of such notice shall not have been complied with to the satisfaction of the Commissioner by such owner within the period aforesaid, the Commissioner shall be at liberty to cause such privy or privies to be constructed, in such manner as may be prescribed in the bye-laws to be framed in that behalf, and the expense incurred in such construction shall be payable by such owner, and shall be recoverable as hereinafter provided.

Neglecting to enclose private privy.

181. The owner or occupier of any house or building having a privy on his premises shall have such privy shut out by a sufficient roof and wall or fence, from the view of persons passing by or residing in the neighbourhood, and it shall not be lawful for any owner or occupier to keep any privy with a door or trap-door opening on to any public street.

Every owner or occupier who shall omit to comply with or shall commit any breach of any of the provisions of this section shall be liable to a penalty of ten rupees a day for each day of default or breach:

Proviso.

Provided that the Commissioner may in his discretion permit the continuance, for such time as he may think fit, of any such privy with a door or trap-door opening on to any street where such privy already exists and does not create a nuisance.

Penalty for making or altering drains, &c.

182. If any drain, cesspool, house-gully, or privy be constructed contrary to the directions and regulations of the Commissioner, or contrary to the bye-laws or provisions of this Act; or if any person without the consent of the

contrary to orders of Commissioner.

Commissioner construct any new drain or privy, or construct, rebuild or unstop, any drain, cesspool, house-gully or privy which has been ordered by him to be demolished or stopped-up, or not to be made, every person so doing shall be liable to a penalty not exceeding fifty rupees; and the Commissioner may cause such improvement or alteration to be made in any such drain, cesspool, house-gully or privy as he may think fit; and the expense thereof shall be paid by the person by whom such drain, cesspool, house-gully or privy was improperly constructed, rebuilt or unstopped, and shall be recoverable from him as hereinafter provided.

Latrines, &c, for labourers.

183. Any person or persons employing workmen or labourers, exceeding twenty in number, who shall fail to provide for them and maintain in proper order latrines and urinals, to be approved by the Commissioner, in such number as he may consider necessary, shall be liable to a penalty not exceeding fifty rupees, and to a further penalty not exceeding five rupees for every day after conviction during which such offence is continued.

Privies, &c, for markets.

184. Every owner or manager of any market shall, within fourteen days after receipt of notice from the Commissioner, provide latrines and urinals, of a pattern to be approved by the Health-officer, and in such number as in the opinion of the said Health-officer may be necessary, and in default of so doing, the owner or manager aforesaid shall be liable to a penalty not exceeding rupees fifty, and to a further penalty not exceeding rupees five for every day until such notice shall be complied with.

Drains, privies, &c., under control of Commissioner, and to be kept in good order by owners

185. All drains, privies, cesspools and house-gullies shall be under the control of the Commissioner, and if the owner thereof, or the owner of the house or land to which the same belong, or for the use of which they are constructed or continued, shall fail to alter, cover, pave and pitch, drain, trap, ventilate, repair, clean or remove any encroachment from, or otherwise keep, the same in such order as shall by the Commissioner, after consulting the Health-officer, be deemed necessary, he shall be liable to a penalty not exceeding fifty rupees, and to a further penalty not exceeding five rupees for every day after conviction during which such offence is continued.

Inspection of drains and privies.

186. The Commisssioner or any officer appointed by him in this behalf may inspect any drain, cesspool, house-gully or privy, and may for that purpose, at any reasonable time, without giving previous notice, enter upon any house or land with assistants and workmen, and cause the ground to be opened where he or they may think fit, doing as little damage as may be; and if, upon such inspection, it appears that the drain, cesspool, house-gully or privy is not in good order and condition, or that it has been constructed contrary to the provisions of this Act, the expenses of such inspection and of any alteration that the Commissioner may deem necessary under the provisions of this Act,

shall be paid by the person to whom such drain, cesspool, house-gully or privy may belong, and shall be recoverable as hereinafter provided; but, if the drain, cesspool, house-gully or privy be found to be in proper order and condition, and not to have been constructed in violation of the provisions of this Act, the Commissioner or officer aforesaid shall cause the ground to be closed and made good as soon as may be, and the expense of opening, closing and making good such drain, cesspool, house-gully or privy shall in that case be defrayed by the Commissioner from the municipal fund:

Provided that the Commissioner or his said officer shall not, without the consent of the occupier thereof, enter into any apartment used as a dwelling-place without previously giving the said occupier twenty-four hours' notice in writing of his intention so to do.

Commissioner to make public sewers.

187. The Commissioner shall, with the sanction of the Corporation, from time to time cause to be made such main and other sewers, drains and water-courses as he may judge necessary for the effectual draining of the city; and, if needful, he may carry them through, across or under any street, or any place laid out as or intended for a street, or any cellar or vault which may be under any of the streets, and (after reasonable notice in writing in that behalf) into, through or under any enclosed or other lands whatsoever, doing as little damage as may be, and making full compensation for any damage done; and if any dispute shall arise touching the amount or apportionment of compensation, the same shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses.

Commissioner to repair and alter, and may discontinue, sewers.

188. *First.*—The Commissioner shall maintain, and from time to time repair, and may, with the sanction of the Corporation, enlarge, alter, arch-over or otherwise improve, all or any of the sewers and drains, culverts, gutters and watercourses vested in the Corporation by this Act, and may discontinue, close-up or destroy such of them as he may deem useless or unnecessary:

Proviso.

Provided always that the discontinuance, closing-up or destruction of any of them shall be so done as not to create a nuisance; and if by reason thereof, or of any such alteration as hereinbefore mentioned, any person is deprived of the use of any sewer, drain, culvert, gutter or watercourse, the Commissioner shall with due diligence provide some other as effectual as the one of which he is so deprived.

Drains, &c., constructed for private use to be maintained by owner.

Second.—All drains, tunnel, culverts, gutters and watercourses in, alongside, or under any street, which have been or may be constructed, whether at the cost of the Corporation or otherwise, or which are continued only for the use of any house or land adjoining or near such street, shall be maintained, and from time to time repaired, cleared, cleansed and emptied, by the owner or

Powers of Commissioner in case of owner's default.

occupier of such house or land; and in the event of such owner's or occupier's failing to maintain, or when necessary to repair, clear, cleanse or empty the same, the Commissioner may, by written notice, require him so to do within such reasonable period as he may deem fit, and if such notice is not obeyed, may himself cause the necessary work to be done at the cost of the said owner or occupier, and such cost shall be recovered as hereinafter provided.

Cleansing and emptying sewers.

189. The Commissioner shall cause the sewers, drains, culverts, gutters and watercourses belonging to the Corporation to be so constructed, maintained, and kept as not to be a nuisance or injurious to health, and to be properly cleared, cleansed and emptied; and for the purpose of flushing, cleansing and emptying the same he may construct and place, either above or under ground, such reservoirs, sluices, engines and other works as may be necessary; and he may also, with the sanction of the Town Council and subject to the general orders of Government, cause all or any of such sewers, drains, culverts, gutters and watercourses to communicate with and be emptied into the sea or other fit place; or he may cause the refuse from the same to be conveyed by a proper channel to the most convenient site for its deposit, and may sell the said refuse for any agricultural or other purposes as may be deemed most expedient, but so that it shall not become a nuisance.

Penalty for making unauthorized drains into or from public sewers.

190. Whoever, without the written consent of the Commissioner first obtained, makes or causes to be made any drain into or out from any of the sewers or drains vested in the Corporation by this Act, shall be liable to a penalty not exceeding one hundred rupees, and to a further penalty not exceeding ten rupees for every day after conviction during which the offence is continued; and the Commissioner may cause such drain to be demolished, altered, re-made or otherwise dealt with as he may think fit, and all expense incurred thereby shall be paid by the owner of the house or land for which the said drain is required, and shall be recoverable as hereinafter provided.

Buildings, &c., not to be erected over sewers, &c., without consent of Commissioner.

191. No building shall be newly erected, nor any road or railway constructed, over any sewer, drain, culvert, gutter, watercourse, water-pipe or gas-pipe vested in the Corporation without the written consent of the Commissioner; and if any building be so erected, or any road or railway so constructed, the Commissioner may cause the same to be removed or otherwise dealt with as he may think fit, and the expenses thereby incurred shall be paid by the person offending, and be recoverable as hereinafter provided, and the person offending shall, whether such building, road or railway be removed or dealt with as aforesaid or not, be liable to a penalty not exceeding rupees one hundred, and to a further penalty not exceeding rupees ten for every day after conviction during which the offence is continued.

Ground-floor.

192. All ground-floor-doors, gates, bars and windows which open upon

any public street, or upon any ground required for the improvement of any street, shall be hung or placed so as not to open outwards, except when the same are hung or placed in such manner as, in the judgment of the Commissioner, to cause no obstruction in any such street or ground; Doors opening on public street not to be hung to open outwards.

and if (except as aforesaid) any such door, gate, bar or window be hung or placed so as to open outwards on any such street or ground, the owner of the premises to which the same is attached shall, within eight days after notice from the Commissioner to that effect, cause the same to be altered so as not to open outwards; and in case he neglects so to do, the Commissioner may make such alteration, and the expense thereof shall be paid by such owners, and shall be recoverable as hereinafter provided. Exception.

193. If any ground-floor-door, gate, bar or window put up before this Act comes into operation is hung or placed so as to open outwards, upon any public street or ground as aforesaid, the owner of the premises to which the same is attached shall, within eight days after notice from the Commissioner to that effect, cause the same to be altered so as not to open outwards, and in case he neglects so to do, the Commissioner may make such alteration, and the expense thereof shall be paid by such owner, and shall be recoverable as hereinafter provided. Ground-floor-doors hung prior to commencement of Act so as to open outwards to be altered.

194. The owner of every house or building in any public street shall, within one month after notice from the Commissioner to that effect, put up and keep in good condition proper troughs and pipes for catching and carrying the water from the roof and other part of such house or building, and for discharging the same in such manner as the Commissioner may direct; and in default of compliance with such notice within the period aforesaid, such owner shall be liable to a fine, which may extend to ten rupees, for every day that he shall so make default. Troughs and pipes to be fixed to houses.

195. The Commissioner may give notice in writing to the owner or occupier of any house or building to remove or alter any projection, encroachment or obstruction which, although erected before this Act comes into operation, shall have been erected or placed against or in front of such house or building, if the same overhangs or juts into, or in any way projects or encroaches upon, any street, so as to be an obstruction to the safe and convenient passage along such street, or if the same projects or encroaches into or upon any uncovered aqueduct, drain or sewer in such street so as to obstruct or interfere with such aqueduct, drain or sewer, or the proper working thereof, Removal of existing projections.

and such owner or occupier shall, within thirty days after the service of such notice, remove such projection, encroachment or obstruction, or alter the same in such manner as shall have been directed by the Commissioner,

and in default thereof the Commissioner may remove such projection, encroachment or obstruction; and if such projection, encroachment or obstruction shall have been lawfully made, the Commissioner shall make reasonable compensation to every person who suffers damage by such removal or alteration: and if any dispute shall arise touching the amount of such compensation, the same shall be ascertained and determined in the manner hereinafter provided.

Projections from houses not allowed.

196. The Commissioner may give notice in writing to the owner or occupier of any house or building to remove or alter any projection, encroachment or obstruction which shall be erected or placed against or in front of such house or building, if the same overhangs or juts into, or in any way projects or encroaches upon, or is an obstruction to the safe and convenient passage along, any street, or obstructs, or projects or encroaches into or upon, any uncovered aqueduct, drain or sewer in such street;

and such owner or occupier shall, within fourteen days after the service of such notice upon him, remove such projection, encroachment or obstruction, or alter the same in such manner as shall have been directed by the Commissioner, and in default thereof shall be liable to a fine which may extend to two hundred rupees; and the Commissioner in such case may remove such projection, encroachment or obstruction; and the expense of such removal shall be recoverable as hereinafter provided:

Proviso.

Provided that when the expense shall have been paid by the occupier, except in the case in which such projections, encroachments or obstructions were made or put up by him, such occupier shall be entitled to deduct the expense of removing or altering the same from the rent payable by him to the owner of the house or building.

Power to allow projecting verandas, &c., in streets not less than 24 feet wide.

197. The Commissioner may give permission in writing to the owners or occupiers of houses or buildings in public streets, the width of which is not less than twenty-four feet, to put up open verandas, balconies, sun-shades, weather-frames and the like, to project from any upper storey thereof over the street to an extent not exceeding four feet beyond the line of the plinth or basement-wall.

Power of Commissioner to erect or affix to buildings, brackets, &c.

198. The Commissioner may erect or fix to the outside of any house or building such brackets for telegraphic wires or lamps as he may deem necessary, provided always that they shall be erected so as not to occasion any nuisance or inconvenience to such house or building, or to any house or building in the neighbourhood.

Names of streets, Numbers of houses.

199. The Commissioner may from time to time cause to be put up or painted on a conspicuous part of any house, at or near each end, corner or entrance to every street, the name or number by which such street is to be

known, and may from time to time fix a number in a conspicuous place on the outer side of any building, or at the entrance of the enclosure thereof fronting the street.

Any person who destroys, pulls down or defaces any such name or number, or puts up any name or number different from that put up by the Commissioner, and any owner or occupier of a house who shall not at his own expense keep the number of the said house in good order after it has been put up, shall be liable to the penalty hereinafter provided.

Houses in ruinous and dangerous state.

200. If any house, building or wall, or anything affixed thereon, be deemed by the Commissoner to be in a ruinous state or likely to fall, or in any way dangerous to the inhabitants of such house or building, or to the neighbouring houses or buildings, or the occupiers thereof, or to passengers, he shall immediately, if it appears to him to be necessary, cause a proper hoard or fence to be put up for the protection of passengers; and shall cause notice in writing to be given to the owner or occupier, requiring such owner or occupier forthwith to take down, secure or repair such house, building, wall or thing affixed thereon, as the case shall require;

and if such owner or occupier do not begin to repair, take down or secure the same within such time not exceeding three days after delivery of such notice as the Commissioner shall, under the circumstances of the case, deem reasonable and shall cause to be named in the said notice,[a] and complete such work with due diligence, the Commissioner shall cause all, or so much of such house, building, wall or thing as he shall think necessary, to be taken down, repaired or otherwise secured; and all the expenses incurred by the Commissioner shall be paid by the owner or occupier of the premises, and shall be recoverable as hereinafter provided.

Sale of materials of ruinous houses.

201. If any such house, building or wall, or any part of the same, be pulled down by virtue of the powers aforesaid, the Commissioner may sell the materials thereof, or of so much of the same as shall be taken down, and apply the proceeds of such sale in payment of the expense incurred, and shall, on demand, restore any overplus arising from such sale to the owner of such house, building or wall:

Provided always that in case no demand for such overplus as aforesaid shall within twelve months be made by any person entitled to call for the same, the Commissioner shall be at liberty to pay the amount of such overplus to the credit of the municipal fund, and shall be freed from any liability to pay or answer for or in respect of such unclaimed overplus.

The Commissioner, although he sells such materials for the purposes

[a] See Bombay Act No. IV of 1878.

aforesaid, shall have the same remedies for compelling the payment of so much of the said expenses as may remain due after the application of the proceeds of such sale, as by this Act are given to him for compelling the payment of the whole of the said expenses.

Power to secure or enclose deserted houses.

202. If any building or land, by reason of abandonment, of disputed ownership or other cause, shall remain untenanted, and thereby be a resort of idle and disorderly persons, or be complained of by any two or more of the neighbours as a nuisance, the Commissioner, after due inquiry, may cause notice in writing to be given to the owner, or to the person claiming to be the owner, if he be known and resident within the limits of his jurisdiction, and shall also cause such notice to be put on the door of the building, or some conspicuous part of the premises, requiring the persons concerned therein, whoever they may be, to secure or enclose the same;

and if such notice shall not be complied with within eight days, the Commissioner shall cause the necessary work to be executed, and all expenses thereby incurred shall be paid by the owner of the premises, and shall be recoverable as hereinafter provided.

Taking up pavements.

203. Whoever displaces, takes up, or makes any alteration in the pavement, gutters, flags or other materials, or in the fences or posts of any public street, without the consent in writing of the Commissioner or executive engineer, or without other lawful authority; or, having displaced, taken up or made any alteration in any such pavement, flags, or other materials, or in the fences, walls or posts of any street with such consent as aforesaid, or with other lawful authority, shall, after notice in this behalf by the Commissioner or executive engineer, fail to replace or restore the same to the satisfaction of the Commissioner or executive engineer, shall be punished with fine, which may extend to fifty rupees;

and every such person as aforesaid shall be liable to a further penalty not exceeding rupees ten for each day after such notice during which default shall be made in so replacing and restoring the same as aforesaid; and it shall, be lawful for the Commissioner, if he shall think fit, to restore any such street and the person making default in restoring the same shall pay any expense which may be thereby incurred.

Commissioner breaking up street to restore it with all convenient speed.

204. Whenever the pavement or surface of any street, or whenever any sewer or drain, shall be opened or broken up by the Commissioner, his officers or servants, he shall with all convenient speed complete the work on account of which the same shall have been broken up, and fill in the ground, and make good the pavement and surface, and the sewer or drain so opened or broken up, and carry away the rubbish occasioned thereby, and shall in the meantime cause the place where such pavement or surface shall be so opened or

broken up to be fenced and guarded and sufficiently lighted during the night.

Commissioner in executing works to provide roads, &c., where existing ones injured.

205. The Commissioner, in executing any works directed or authorized by this Act to be made, shall provide and make a sufficient number of convenient ways, water-courses, drains or channels in the place of such as may be interrupted, injured or rendered useless by reason of the execution of such works; and the Corporation shall make reasonable compensation to any person who suffers damage by reason of the same; and the amount of such compensation, in case of dispute, shall be ascertained and determined in the manner hereinafter provided.

And may require persons who injure them to make new ones

The Commissioner may also require any person who, in the execution of any work of his own, interrupts, injures or renders useless any water-course, drain or channel to provide and make new ones to the satisfaction of the said Commissioner within such reasonable period after notice as the Commissioner may fix; and in default it shall be lawful for the Commissioner to cause such water-course, drain or channel as he may deem necessary to be constructed, and to recover the expense incurred thereby from the said person in the manner hereinafter provided.

Power to trim hedges and trees.

206. Whoever, being the owner or occupier of any land, shall fail to keep the hedges thereof cut down to a height not exceeding four feet above the level of the road, or shall fail to cut down or cut, lop, or trim such trees as do or may in any way overhang, endanger or obstruct any public road or street, shall be liable to a penalty not exceeding ten rupees, and to a further penalty not exceeding five rupees for every day after conviction during which the offence is continued.

Fallen trees, shrubs, &c

207. Whoever, being the owner of any fallen trees or shrubs endangering public safety, or of trees or shrubs likely to fall and to endanger public safety, or the owner or occupier of the land on which such trees or shrubs may have been or are growing, shall fail to remove them after notice, within a time to be prescribed by the Commissioner, shall, upon conviction, be liable to a penalty not exceeding fifty rupees, and to a further penalty not exceeding five rupees for every day during which the offence is continued.

Future obstructions on streets or roads.

208. Whoever shall build any wall, or erect or set up any fence, rail, post, step, stall or any erection or thing, or any obstruction or encroachment, in any street, or shall place or deposit, or cause to be placed or deposited, any box, bale or package of merchandize, or any other thing, in or over, or upon, any street or road so as to form an obstruction to, or encroachment upon, or projection over, the same, or to, upon or over an open drain, gutter or sewer or aqueduct, or well or tank open to public use in any such street or road; or

whoever, being the owner or one of the owners of any property contiguous to, or in front of, or in connection with which, any wall, fence, rail, post, stall, step or other erection or thing so forming an obstruction, encroachment or projection as aforesaid shall have been heretofore built, erected or set up, shall, after fifteen days notice in writing in this behalf by the Commissioner to the owner or occupier for the time being of such property, neglect to pull down, remove, and take away the obstruction, encroachment or projection, aforesaid, or, having complied with such notice, shall again commit the same offence,

shall be liable to a penalty not exceeding rupees one hundred, and to a further penalty not exceeding rupees ten for every day after conviction during which the offence is continued;

and the Commissioner is hereby authorized to pull down, remove and take away any such obstruction, encroachment or projection; and the expense incurred by him in and about such removal shall be paid by the person so causing or permitting, or neglecting to remove, such obstruction, encroachment or projection, and shall be recoverable either by the sale of the materials thereof, or if the proceeds of such sale shall not be sufficient, then in the manner hereinafter mentioned:

Proviso. Provided nevertheless that the Commissioner shall be at liberty, upon the payment of such expenses aforesaid, to restore such materials to the owners or one of the owners thereof; and that the aforesaid authority of the Commissioner to pull down, remove and take away, shall be exercisable by him whether or not such penalty as aforesaid shall have been recovered, or proceedings instituted for the recovery of the same:

Proviso. Provided also that if such materials be not claimed by the owners or one of the owners thereof within one month from the date of such removal, the same may, whether the expense of such removal shall have been paid or not, be sold or otherwise disposed of by the Commissioner as he may think fit, and the money (if any) arising from the sale or disposition thereof shall, after deducting the expenses of such sale, if not required to defray the expense of such removal, be paid to the credit of the municipal fund.

Proviso. Provided also that nothing herein contained shall prevent the Commissioner, with the concurrence of the Commissioner of Police, from allowing any temporary erections in any public street on the occasions of festivals and ceremonies.

Hoards to be set up during repairs

209. Every person intending to build or take down any building, or to alter or repair the outward part of any building, shall, before beginning the same, and having first obtained permission in writing from the Commissioner so to do, cause sufficient hoards or fences to be put up, in order to separate the

building where such works are being carried on from the street or footway, and shall continue such hoard or fence standing and in good condition, to the satisfaction of the Commissioner, during such time as the public safety or convenience may require, and shall cause the same to be sufficiently lighted during the night;

and every such person who begins to build or take down, or alter or repair any building contrary to the provisions of this section, or

whoever without permission erects or sets up any hoard, scaffolding or fence whatsoever, whether set or placed upon or over any street or footway, or in or upon any gutter or course adjoining any street or footway, or property over or above the same, or

whoever, having obtained permission, fails to put up such fence or hoard,

shall be liable to a penalty not exceeding five hundred rupees, and to a further penalty not exceeding fifty rupees for every day after conviction during which the offence is continued;

and every such person who, having obtained permission, fails to continue such hoard, scaffolding, or fence standing and in good condition as aforesaid during the time aforesaid, or who does not, while the said hoard or fence is standing, keep the same sufficiently lighted during the night, or who does not remove the same when directed by the Commissioner, within a reasonable time, shall be liable to a penalty not exceeding fifty rupees for every day during which the offence is continued.

Bars to be erected across streets during repairs, and lights placed at night.

210. The Commissioner shall, during the construction or repair of any of the streets, roads, sewers, drains or other premises vested in the Corporation by virtue or for the purposes of this Act, take proper precaution for guarding against accident by shoring up and protecting the adjoining houses and buildings, and shall cause such bars, chains or posts to be fixed across or in any of the streets or roads, to prevent the passage of carriages, carts or other vehicles, cattle or horses, while such works are being carried on, as to him shall seem proper;

and the Commissioner shall cause any sewer or drain, or other works in streets or roads, during the construction or repair thereof, to be sufficiently lighted and guarded during the night; and whoever takes down, alters or removes any of the said bars, chains or posts, or extinguishes any light, without the authority or consent of the Commissioner, shall be punished with fine which may extend to fifty rupees.

Penalty for not fencing and lighting deposits of building-ma-

211. No person shall deposit any building-materials, or make a hole in any street or road, without the permission in writing of the Commissioner, and such permission shall be terminable at the discretion of the Commissioner, and when such permission is granted to any person he shall at his own expense

terials or excavations

cause such materials or such hole to be sufficiently fenced and enclosed until the materials are removed or the hole is filled up or otherwise made secure to the satisfaction of the Commissioner, and shall cause the same to be sufficiently lighted during the night;

and whoever deposits materials or makes a hole without such permission, or fails to fence or enclose and light such materials or hole, or does not remove such materials or fill up such hole, or otherwise make it secure, in the manner aforesaid, when the permission has been withdrawn, shall be punished with fine which may extend to fifty rupees, and shall also be liable to a further penalty not exceeding fifty rupees for every day while the offence is continued.

Dangerous places near streets to be repaired or enclosed.

212. Whenever, in the opinion of the Commissioner, any place whatsoever is, from insufficient repair, protection or enclosure, in such a condition as to be dangerous to persons passing along a street or thoroughfare, the Commissioner may give notice to the owner or occupier thereof to repair, protect or enclose the same within twenty-four hours, so as to prevent danger therefrom; and whoever, being such owner or occupier aforesaid, shall fail to comply with such notice, shall be liable to a penalty not exceeding fifty rupees, and to a further penalty not exceeding five rupees for every day after conviction during which the offence is continued:

Proviso.

Provided always, that before or after instituting proceedings for such penalty, and whether such proceedings shall or shall not be instituted, the Commissioner may summarily repair, protect or enclose any such place aforesaid, or may take such measures as, in his opinion, shall in each case be necessary; and the expenses incurred shall be paid by the owner or occupier, and shall be recoverable as hereafter provided.

Extinction of Fires.

Powers of chief officer of Fire-brigade at a fire.

212A. On the occasion of a fire the chief or other officer in charge of the Fire-brigade may take the command of all officers of the Corporation present and of any other persons who voluntarily place their services at his disposal, and may

(1) remove, or order any foreman, or other officer or person under his command to remove any persons who interfere by their presence with the operations of the Fire-brigade; and

(2) take generally any measures that appear expedient for the protection of life and property, with power by himself or by the persons under his command to break into or through, or take possession of, or pull down, any premises for the purpose of putting an end to such fire, doing as little damage as possible; and

(3) cause the water to be shut off from the mains and pipes of any district in order to give a greater supply and pressure of water in the district in which the fire has occurred, and utilize the water of any well or tank available for the purpose of extinguishing such fire.

Police and municipal officers to aid Fire-brigade.

212B. All police officers and all municipal executive officers shall be authorized to aid the Fire-brigade in the execution of their duties. They may close any street in or near which a fire is burning, and remove any persons who interfere by their presence with the operations of the Fire-brigade.

Damages done by Fire-brigade deemed damage by fire.

212C. Any damage occasioned by the Fire-brigade in the due execution of their duties, or by any Police or municipal officer who aids the Fire-brigade, shall be deemed to be damage by fire within the meaning of any policy of insurance against fire.

General Sanitary Regulations.

Dust-boxes in streets.

213. The Commissioner may cause any number of moveable or fixed dust-boxes, or other convenient receptacles or places, wherein dust, dirt, ashes, refuse and rubbish shall be temporarily deposited until removed and carried away, to be provided and placed in proper and convenient situations, and may require by beat of battáki the occupiers of houses to cause all such matters as aforesaid to be deposited daily, or otherwise periodically, in the said receptacles or places. Every person who after such receptacles or places have been provided, and after such requisition as abovementioned has been made, shall deposit, or cause or permit to be deposited, any such matter elsewhere than in such receptacles or places, shall be punished for each offence with fine which may extend to ten rupees.

Places for deposit of filth.

214. The Commissioner, from time to time, shall provide places convenient for the disposal of night-soil, dung and other filth, and the dust, dirt, ashes, refuse, dead animals and rubbish, collected and removed under the authority of this Act; and for keeping all cattle, carts, implements and other things required for the above or any of the purposes of this Act: Provided that no such night-soil or dead animals as aforesaid shall be deposited in the neighbourhood of populous localities or within the limits of the city of Bombay, and that no such dung, dust, dirt, ashes, refuse or other rubbish as aforesaid shall be deposited within the limits of the city of Bombay, except with the sanction of the Town Council.

Rubbish, &c., collected to be property of Corporation.

215. All dirt, dust, ashes, rags, rubbish, sewerage-soil, dung and filth collected from streets, houses, privies, sewers and cesspools, shall be the property of the Corporation, and the Commissioner shall have power to sell or dispose of the same as he may think proper, and the money arising from the sale thereof shall be paid to the credit of the municipal fund.

Removal of night-soil.

216. The Commissioner from time to time may fix the hours within which only it shall be lawful to remove any night-soil or other offensive matter of a like nature; and when the Commissioner has fixed such hours, and given public notice thereof, whoever removes or causes to be removed along any street any night-soil or other offensive matter at any time except within the hours so fixed, or whoever at any time, whether such hours have or have not been fixed by the Commissioner, uses for any such purposes any cart, carriage, receptacle or vessel other than of a pattern to be approved of by the Commissioner, or who wilfully or negligently slops or spills any such offensive matter in the removal thereof, or who does not carefully sweep and clean every place in which any such offensive matter has been slopped or spilled, or who places or sets down in any public place any vessel containing such offensive matter, or who drives or takes, or causes to be driven or taken, any cart, carriage, receptacle or vessel used for any such purposes as aforesaid, through any street or by any route other than such as shall from time to time be appointed for that purpose by the Commissioner by public notice, shall for each offence be punished with fine not exceeding twenty rupees.

Throwing rubbish, &c., into sewers, streets, &c.

217. Whoever throws or puts, or whoever permits his servants or any member of his family or household to throw or put, anything that is, or may be, a nuisance into any street, sewer, drain, culvert, tunnel, gutter or watercourse, whether natural or artificial, belonging to the Corporation, or into any drain, gutter or watercourse communicating therewith, or whoever obstructs the same without the consent in writing of the Commissioner, or whoever uses a house or surface-drain as a receptacle or deposit for night-soil without such consent as aforesaid, shall be punished with fine which may extend to rupees fifty, and to a further penalty not exceeding five rupees for every day after conviction during which the offence is continued.

Penalty for nuisance on house or land.

218. Whoever, being the owner or occupier of any house or land, causes or allows any matter whatever which is or may become a nuisance, to soak through any building, or part of a building, or wall, or to run, drain, fall or be thrown therefrom; or

whoever keeps or allows to be kept in or upon any house or land anything or any animal, in such a way as to be a nuisance,

shall be liable to a penalty not exceeding fifty rupees, and to a further penalty not exceeding ten rupees for every day after conviction during which the offence is continued.

Removal of dead animals.

219. Every person within whose premises any animal may die, shall, within three hours after its death, or if death occurs at night then within three hours after daylight, either remove, at his own expense, the carcase to such place as may be set apart by the Commissioner for the reception of such carcase, or

report its death to an officer in the Health Department of the division within which such premises may be situated, and demand its prompt removal; and in such latter case shall pay to the Commissioner the expense of removing the carcase at such rate as the Commissioner may determine;

and, in cases where the said person is not the owner of the animal and the owner is known, the owner shall alone be responsible for the payment of such expense, and such expense shall be recoverable as hereinafter provided.

Whoever shall fail to report the death of any animal, or to remove its carcase, within the time above-mentioned, shall be liable to a penalty not exceeding ten rupees.

Filthy houses, &c.

220. Whoever, being the owner or occupier of any house, building or land, whether tenantable or otherwise, suffers the same to be in a filthy, unwholesome state, or, in the opinion of the Commissioner, a nuisance to those in the neighbourhood, or overgrown with rank and noisome vegetation, and who shall not within twenty-four hours after notice in writing by the Commissioner to cleanse, clear or otherwise put the same in a proper state, have complied with the requisition contained in such notice, shall be liable to a penalty not exceeding fifty rupees, and to a further penalty not exceeding five rupees for every day after conviction for such offence during which the offence is continued:

Proviso.

Provided that if the state of the house or building be such as in the judgment of the Commissioner to render it unfit for human habitation, he may further prohibit the using thereof for that purpose until it is so rendered fit.

Power to enter and cleanse houses and buildings.

221. It shall be lawful for the Commissioner, on the recommendation of the Health-officer, at any time between 5 A.M. and 7 P.M., by himself or his servants, on giving such notice as hereinafter provided, to enter into and inspect all houses and buildings, and by an order in writing to direct all or any part to be forthwith internally and externally limewashed or otherwise cleansed for sanitary reasons;

and if the owner or occupier of such house or building neglect to do so within eight days from the time when such order shall have been served upon him, the Commissioner may cause the same to be done, and the expenses incurred shall be paid by the owner or occupier, and shall be recoverable as hereinafter provided.

Abatement of overcrowding in dwelling-houses.

222. Whenever the Health-officer shall certify to the Commissioner that any dwelling-house is overcrowded so as to be dangerous or prejudicial to the health of the inhabitants, it shall be lawful for a Presidency Magistrate, upon proof of such overcrowding as aforesaid, to issue an order to the owner of such house requiring him, within six weeks from the date thereof, to abate such

over-crowding by ejecting such number of lodgers or tenants or other inhabitants as shall be stated in the order, and in case the owner of such house refuses or neglects to comply with the terms of such notice, he shall be liable to a finenot exceeding twenty rupees for every day after the expiry of the term mentioned in the order until he shall have complied with such order.

And whenever such owner shall establish to the satisfaction of the said Magistrate that it is owing to the tenants' refusal to leave that the terms of the order have not been carried out, it shall be lawful to the said Magistrate to impose such fine on the recusant tenants, and not on the owner:

Proviso. Provided always, that if the owner of any such dwelling-house shall have sub-let the same to any contractor, the contractor shall, for the purpose of this section, be held to be the owner.

Power to fill up unwholesome tanks on private premises

223. Whenever, in the opinion of the Commissioner, after consulting the Health-officer, any pool, ditch, tank, pond, well, quarry, hole or low ground, or any waste or stagnant water (the same being within any private enclosure), is or may be a nuisance, the Commissioner may, with the sanction of the Town Council, by notice require the owner of the same to cleanse or fill up the same, or to drain-off or remove such stagnant water, or take such measures as shall, in his opinion, be necessary to abate or remove the nuisance;

and if the said owner shall refuse or neglect to comply with such requisition during eight days from the service thereof, he shall be liable to a penalty not exceeding rupees fifty, and to a further penalty not exceeding five rupees for every day until such notice shall be complied with.

Power to drain-off and cleanse stagnant pools in open places.

224. The Commissioner, with the sanction of the Town Council, is hereby empowered from time to time to drain-off and cleanse, or fill up or remove, any pool, ditch, tank, well, pond, quarry, hole or low ground, or any waste or stagnant water (the same not being within any private enclosure), which, in the opinion of the Health-officer, is or may be a nuisance, whether the same be the private property of any person or otherwise; and the Commissioner, his officers and workmen, may do all necessary acts for effecting any of the purposes aforesaid; and the expenses incurred thereby shall be paid by the owner, and shall be recoverable as hereinafter provided.

Regulation of certain Trades.

Offensive and dangerous trades.

225. The owner or occupier of every place within the city used for any of the following purposes, namely, for melting tallow or sulphur, or for boiling or storing offal, blood, bones or rags, or for washing or drying wool or hair, or as a soap-house, dyeing-house, oil-boiling house, tannery, brick, pottery or lime-kiln, sago-manufactory, distillery or other manufactory, or place of

storing hides, fish, horns, skins or other articles, from which either offensive or unwholesome smells arise, gunpowder-manufactory, manufactory of fire-works, place of storing explosive or combustible materials, or of any place which is used for any purposes which are calculated to be dangerous to life or health, or property, shall, once in every year, obtain from the Commissioner a license for the use of any such place for any of the purposes aforesaid;

and the Commissioner may grant, withhold, cancel, revoke or suspend such license, showing cause always for such withholding, cancelling, revoking or suspension.

And whoever, without such license, uses any such place for any of the purposes aforesaid, shall be liable to a penalty not exceeding rupees one thousand, and to a further penalty not exceeding one hundred rupees for every day after conviction during which the offence is continued.

Certain stables, &c., to be licensed.

226. The owner or occupier of every place within the city used by or for horses, buffaloes or other animals which are let out on hire, or the produce of which is made an article of trade, shall, once in the first quarter of every year, obtain from the Commissioner a license for the same, and the Commissioner may grant, withhold, suspend, revoke or cancel such license, showing cause always for such withholding, cancelling, revoking or suspension;

and whoever, without such license, uses any such place, or permits the same to be used, for such purpose, shall be liable to a penalty not exceeding rupees five hundred, and to a further penalty not exceeding rupees fifty for every day after conviction during which the offence is continued.

Timber, firewood and hay-depôts to be licensed.

227. Every occupier of every separate place or portion of any place for the sale or for the storage (for other than private use) of wood, firewood, hay, grass, straw or coal, shall, once in the first quarter of every year, obtain from the Commissioner a license for the same, and every application for such license shall contain a statement showing the measurements of the place or portion of a place for which the same is required;

and the Commissioner may grant, withhold, cancel, revoke or suspend such license, showing cause always for such withholding, cancelling, revoking or suspension;

and whoever, without such license, occupies or keeps, directly or indirectly, such place or portion of such place aforesaid, shall be liable to a penalty not exceeding one hundred rupees, and to a further penalty not exceeding ten rupees for every day after conviction during which the offence is continued.

Power of Commissioner to inspect

228. The Commissioner, if he shall have reason to believe that any offence is being committed against the provisions of sections 225, 226 and 227 of this Act, or against the bye-laws to be made in the manner hereinafter

trades and places.

provided, for the inspection of every place within the city used for any of the purposes mentioned in sections 225, 226 and 227 of this Act, and for the management and conduct of such business, whether the same be newly established or not, shall have power to enter into, or cause his officers, servants or agents to enter into, any such suspected place for the purpose of inspection, without notice, and at any hour, and without being liable to any action or other proceeding in respect of any damage which may be necessarily caused by such entry, or by any necessary force used for the purpose of effecting the same.

Furnaces used for trade to consume own smoke as far as practicable.

229. Every furnace employed or to be employed in the city of Bombay in any works or buildings used for the purposes of any trade or manufacture whatsoever within the city, whether a steam-engine be or be not used or employed therein, shall in all cases be constructed or so altered as to consume or burn or reduce as far as may be practicable the smoke arising from such furnace;

and if any person shall use or permit to be used any such furnace which shall not consume or burn its own smoke, or shall so negligently use or permit to be used any such furnace as that the smoke arising therefrom shall not be effectually consumed or burnt, every person so offending, being the owner or occupier of the premises, or being an agent or other person employed by such owner or occupier for managing the same, shall, upon conviction before any Magistrate, be liable to a penalty not exceeding one hundred rupees, and upon a second conviction the sum of two hundred rupees, and for each subsequent conviction a sum double the amount of the penalty imposed for the last preceding conviction:

Proviso.

Provided that nothing in this section shall be held to apply to locomotive engines used for the purposes of traffic upon any railway or for the repair of roads.

Slaughter-houses.

Commissioner to provide places for slaughter-houses.

230. The Commissioner shall, with the sanction of the Corporation and of Government, provide and maintain sufficient places for the purpose of being used as slaughter-houses.

Slaughter-houses to be licensed

231. No place shall be used as a slaughter-house, or for the slaughtering of any animal intended for food, or for selling the flesh thereof, within or for the city, unless a license for such use thereof has been previously obtained from the Commissioner, who is hereby empowered, at his discretion, from time to time, to grant, withhold, suspend, revoke or cancel such licenses, showing cause for such withholding, revoking, cancelling or suspension;

and whoever, without such license, uses such place for any of the purposes aforesaid, shall be punished with fine which may extend to two hundred rupees,

and to a further penalty not exceeding fifty rupees for every day after conviction during which the offence is continued:

Provided that nothing herein contained shall prevent the Commissioner from allowing the slaughtering of any animal in such place or places as he may think fit, on occasions of festivals and ceremonies, or as a special measure.

Penalty for using slaughter-houses during suspension or revocation of license.

232. Whoever, during the period for which any such license is withheld, suspended, cancelled or revoked, as aforesaid, shall slaughter any animal intended for food, or allow any such animal to be slaughtered, or sell the flesh of any such animal, shall be liable to a penalty not exceeding five hundred rupees, and to a further penalty not exceeding one hundred rupees for every day after conviction during which the said offence is continued.

New slaughter-houses, &c., beyond limits of city.

233. Whenever the Commissioner, with the sanction of the Corporation and of Government, shall have established any slaughter-houses beyond the limits of the city of Bombay, for the use of the inhabitants of the city, the Commissioner shall have power to make bye-laws for the management of the same;

Bye-laws.

and all offences against such bye-laws or against the provisions of this Act shall be cognizable by the Presidency Magistrates, as if such slaughter-houses were within the city of Bombay:

Proviso.

Provided the limits of such slaughter-houses be duly notified in the Government Gazette, and plans thereof lodged with the several Presidency Magistrates.

When search may be made without notice.

234. If the Commissioner, or his officers or subordinates, has or have reason to believe that any animals intended for food are being slaughtered, or the flesh thereof sold, in any places other than such as are lawfully set apart for those purposes according to the provisions of this Act, it shall be lawful for the Commissioner to enter into or cause his servants, or agent duly authorized in writing, to enter into any such places for the purposes of inspection, without notice and at any hour, and without being liable to any action or other proceedings in respect of any damages which may be necessarily caused by such entry, or by any necessary force used for the purpose of effecting the same.

Licensing of butchers.

235. Every person either directly or indirectly carrying on the trade of a butcher within the city, or at the authorized municipal slaughter-houses and grounds, shall obtain from the Commissioner an annual license for that purpose;

and whoever after the passing of this Act shall carry on such trade without so obtaining such license, shall be liable to a penalty not exceeding fifty rupees, and to a further penalty not exceeding five rupees for every day until such license shall be so obtained.

Penalty for feeding animal with night-soil.

236. Whoever shall feed, or permit to be fed, any animal with night-soil, dung or stable refuse, shall be liable to a penalty not exceeding fifty rupees.

Public and private Markets, &c.

What to be deemed public market.

237. All markets which are repaired and maintained out of the municipal fund, shall be deemed to be public markets.

Power to close markets and sell grounds and premises.

238. The Commissioner may, with the sanction of the Town Council and of Government, close any of the public markets in the said city; and if the ground and premises vacated shall not be required for any of the purposes of this Act, the same or any part thereof may, with the like sanction, be sold, and the proceeds of such sale shall be carried to the credit of the municipal fund.

Commissioner may let stalls.

239. The Commissioner shall either take stallage-rents in respect of the use by any person to [a] any stall in any market vested in the Corporation, or he may from time to time sell, by public auction or otherwise, the privilege of occupying any stall or space within the limits of the said markets, for such terms and periods, and subject to such conditions, as shall, with the sanction of the Town Council, be fixed by the Commissioner.

Selling articles in markets without Commissioner's permission.

240. Every person who shall, without the permission or license of the Commissioner, sell or expose for sale any article within the limits of the said markets in respect of the use of which rents, stallage, tolls or payments are authorized to be taken under this Act, shall be punished with fine not exceeding fifty rupees for each offence.

Private markets not allowed.

241. No new private market for the sale of animals or commodities intended for human food shall, except with the sanction of the Corporation, be established within the city of Bombay; and if, in the opinion of the Town Council, any private market then existing is in any respect, by construction or management, unfit for the purposes of a market, and the owner shall neglect after due notice to render it so fit, he shall be liable to a penalty not exceeding five hundred rupees, and to a further penalty not exceeding ten rupees for every day during which after conviction the offence shall be continued; and the same, with the sanction of the Town Council and of the Government, may be purchased for a public purpose under Act X of 1870, and when purchased the market shall be improved as required, and declared a public market.

Markets, slaughter-houses, &c., to be properly drained.

242. Every owner, farmer or occupier of any market or place for the sale of any animal or vegetable-produce intended for food or drink, or of any slaughter-house, shall cause such drains to be made therein as shall be con-

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[a] *Sic.* Read "of."

sidered sufficient by the Commissioner, and shall, if required so to do by the Commissioner, cause all the floors to be paved with dressed stone or other approved material, and the drains to be paved and lined with dressed stone or burnt brick, or drain-pipes, or other approved material, and shall also cause a supply of water to be provided, sufficient for keeping such market or place in a clean and wholesome state;

and if such owner, farmer or occupier, after notice in writing given to him by the Commissioner that such market or place is defective in any of the said particulars, and requiring him to remedy the defect specified within a reasonable time, makes default therein, he shall be liable to a penalty not exceeding fifty rupees for every day during which such default is continued; and the Commissioner may lawfully close such market or place until, to his satisfaction, after consulting the Health-officer, such default has been remedied.

Markets, &c., to be properly maintained.

243. Whoever, being the owner, farmer, occupier, agent or manager in charge of any market or shop, or stall therein, shall keep the same so that it is a nuisance, or

who, being such owner, farmer, occupier, agent or manager, shall not cause anything that is a nuisance to be at once removed to a place to be notified by the Commissioner, or

who, being such owner, farmer, occupier, agent or manager, shall obstruct any person appointed by the Commissioner for that purpose in entering and inspecting any such premises at any reasonable time,

shall be liable to a penalty not exceeding rupees fifty for each offence.

Commissioner may enter and inspect shops, &c., and seize unwholesome articles exposed for sale.

244. The Commissioner, or any person appointed by him for that purpose, may at all reasonable times enter into and inspect any place used for the sale, either wholesale or by retail, or for the storing of articles intended for food, drink or medicines, and may examine any such articles which may be therein; and should it appear to the said Commissioner, Health-officer or other person aforesaid, that such articles or any of them are unfit for food or medicine, or are not what the seller represents them to be, he may seize the same;

and if it appear to a Magistrate upon sufficient evidence that the same are unfit for food, drink or medicine, he shall order the same to be destroyed, or to be so disposed of as to prevent their being again exposed for sale or used for food, drink or medicine, and the owner thereof, or the person in whose possession the same are found, shall be liable to the penalty provided by section 273 of the Indian Penal Code.

Special Sanitary Regulations.

Special sanitary exigencies.

245. In the event of the city being at any time visited or threatened with an outbreak of any epidemic disease, the Commissioner is hereby empowered

and directed, with the previous sanction of the Governor in Council, to take such measures as may be deemed necessary to prevent, meet, mitigate or suppress any such outbreak.

Prevention of Infectious Diseases.

Information to be given of existence of dangerous infectious disease

245A. Every medical practitioner who treats or becomes cognizant of the existence of any epidemic, endemic or dangerous infectious disease in any private or public dwelling in the city of Bombay other than a public hospital, shall be bound to give information of the same to the Health-officer with the least practicable delay. The said information shall be communicated in such form and with such details as the Health-officer, with the consent of the Municipal Commissioner, from time to time requires.

Municipal Commissioner's power of entry for preventing spread of disease.

245B. The Municipal Commissioner, or any officer duly appointed by him in writing in this behalf, shall have power of entry at any time in any dwelling-place in which any epidemic, endemic or dangerous infectious disease is reputed or suspected to exist, for the purpose of preventing the spread of the same.

Provision of carriages for conveyance of patients.

245C. The Municipal Commissioner, with the consent of the Town Council, may provide and maintain a suitable carriage or carriages for the free conveyance of persons suffering from any dangerous infectious disease; and when such carriage or carriages has or have been provided, it shall not be lawful to convey any such person by any public conveyance.

Commissioner may order removal of patients to hospital.

245D. When a hospital or place for the reception of persons suffering from any dangerous infectious disease is provided within the limits of the city of Bombay, the Municipal Commissioner may, on a certificate signed by the Health-officer or other medical practitioner, direct the removal to such hospital or place of any person suffering from a dangerous infectious disease who is, in the opinion of such Health-officer or other medical practitioner, without proper lodging or accommodation, or who is lodged in a room occupied by more than one family.

Disinfection of houses, &c.

245E. If upon the certificate of the Health-officer the Municipal Commissioner is of opinion that the cleansing or disinfecting of a house or other building, or of a part of a house or other building, or of any articles therein likely to retain infection, would tend to prevent or check the spread of any dangerous infectious disease, he may, by notice in writing, require the owner or occupier to cleanse or disinfect the same, and if such owner or occupier fails within the time specified in such notice to comply with the same, he shall be liable to a penalty of not less than rupees five, and not exceeding rupees ten, for every day of continuing default;

and the Municipal Commissioner shall cause the house, or part of the house,

or article, to be cleansed or disinfected, and shall recover the expenses from the owner or occupier in the manner hereinafter provided

Provided always, that when, in the opinion of the Municipal Commissioner, the owner or occupier is from poverty or otherwise unable effectually to carry out the said requirements, the Municipal Commissioner may cleanse or disinfect the house or building or part of the same, and any articles therein likely to retain infection, at the expense of the municipal fund

Place for disinfection may be provided

245F It shall be lawful for the Municipal Commissioner, with the consent of the Town Council, to provide a proper place or places, with all necessary apparatus and attendance, for the disinfection of clothing, bedding or other articles which have become infected, and in his discretion to cause articles brought for disinfection to be disinfected free of charge

also places for washing

It shall be lawful for the Municipal Commissioner from time to time to notify places at which articles of clothing or bedding, or other articles, which have been exposed to infection from any dangerous infectious disease may be washed, and any person washing such articles without previous disinfection at places other than those notified by the Municipal Commissioner, shall be liable to a penalty not exceeding rupees one hundred

Infected articles may be destroyed

The Municipal Commissioner may, on the recommendation of the Health-officer, direct the destruction of bedding, clothing or other articles likely to retain infection, and may, in his discretion, give compensation for the articles destroyed

Penalty for exposure of infected persons or things

245G Any person suffering from a dangerous infectious disease who, without proper precaution against spreading such disease, causes or suffers himself to be conveyed in a public conveyance, or who causes or suffers himself to be conveyed in a public conveyance contrary to the provisions of section 245C, and any person in charge of or accompanying a patient so conveyed, and

any owner or driver of a public conveyance who knowingly conveys or permits any such patient to be conveyed contrary to the provisions of section 245C in a public conveyance, or does not immediately provide for the disinfection of such conveyance after it has, with his knowledge, conveyed any such patient, and

any person who, without previous disinfection of the same, gives, lends, sells, transmits or otherwise disposes of any article or thing which he has reason to know has been exposed to infection, shall be liable to a penalty not exceeding fifty rupees

Provided that nothing in this section shall be deemed to apply to a person who transmits with proper precautions any article or thing for the purpose of having the same disinfected

Penalty if

245H Any person suffering from any dangerous infectious disease who

patient enters public conveyance without notifying that he is suffering from infectious disease.

enters a public conveyance without previously notifying to the owner or driver that he is so suffering, shall be liable to a penalty not exceeding fifty rupees, and to an additional fine of such amount as the Magistrate shall deem sufficient to cover the loss and costs which the owner or driver must incur for the purpose of disinfecting such conveyance.

The amount of any additional fine so imposed shall be awarded by the Magistrate, subject to the provisions of section 186 of the Presidency Magistrates Act, 1877, to the owner or driver of the said conveyance.

No owner or driver of a public conveyance shall be required to convey any person suffering as aforesaid without payment or tender of a sum sufficient to cover such loss and costs as aforesaid, anything in any Act relating to public conveyances for the time being in force to the contrary notwithstanding.

Penalty for letting infected rooms, &c.

245 I. Any person knowingly letting a house or other building, or part of a house or building, in which any person has been suffering from a dangerous infectious disease, without having such house or other building or part thereof, and all articles therein liable to retain infection, disinfected to the satisfaction of the Health-officer or of a medical practitioner, as testified by such officer's or medical practitioner's certificate, shall be liable to a penalty not exceeding two hundred rupees.

For the purpose of this section an innkeeper shall be deemed to let part of his house to any person admitted as a guest into the inn.

Places for the Disposal of the Dead.

Places for disposal of the dead to be registered.

246. Every place for the disposal of the dead shall be registered by the owner or the person having the control thereof, and if it shall appear to the Commissioner that there is no owner or person authorized to control the same, it shall by order of the Commissioner be registered, and every person who shall register any such place for the disposal of the dead, shall, at the time of registering the same, file in the office of the Commissioner a certified plan, showing the extent of boundaries thereof;

and whoever shall make default in registering any such place or in filing such plan, or knowingly disposes of, or causes, procures or suffers any corpse to be disposed of, in or on any ground other than such registered place for the disposal of the dead, shall be liable to a penalty not exceeding one hundred rupees for each offence.

Sanction of Commissioner and Town Council to open new places for disposal of dead.

247. No place for the disposal of the dead shall be made, used or opened without special sanction first obtained from the Commissioner, who is hereby empowered, with the sanction of the Town Council, to grant or withhold such sanction;

and whoever without such sanction shall make or open such place for the disposal of the dead, or whoever shall dispose of, or cause, permit or suffer, any corpse to be disposed of in any such place aforesaid, made or opened without such sanction, shall be liable to a penalty not exceeding five hundred rupees for each offence.

Burials within places of worship; exhumations.

248. No vault or grave shall be made, or interment permitted, underneath or within the walls, passages, porches, porticoes, plinth or verandas of any church or chapel, or other place of worship, now built, or which may be built, and no exhumation shall be permitted from any place used for the disposal of the dead, without the special sanction of Government, or of a person duly authorized by Government to give such sanction; and any person so making any vault or grave, or so interring or exhuming, or assisting at such making or interment or exhumation, shall be liable to a penalty not exceeding five hundred rupees for each offence.

Government to issue declaration prohibiting improper burial-places.

249. If upon the evidence of competent persons and after personal inspection the Commissioner shall be satisfied that any place used for the disposal of the dead is in such a state that it is or may be dangerous to health, or that any church or other place of public worship is or may be dangerous to health by reason of the state of the vaults or graves within the walls of or underneath the same, or in any church-yard or burial-ground adjacent thereto, he shall report the same to the Town Council, and it shall be lawful for the Commissioner, with the concurrence of the Town Council, to issue a certificate to the above effect, and it shall be lawful for the Governor in Council, upon the receipt of such certificate and after due inquiry by him, to issue a declaration that any such place or church or other place of public worship as aforesaid shall be closed.

The said certificate and declaration shall be published in the Government Gazette, and in one or more of the public English and in two vernacular newspapers published in Bombay, and a copy of such certificate, with a translation thereof in Maráthí and Guzaráthí languages, shall in the case of a place for the disposal of the dead be affixed on some part of the said ground or place, and after the expiration of two calendar months from the date of such publication, it shall not be lawful to dispose of, or permit or suffer any corpse to be disposed of, in, upon, within, or under the place, ground, or place of worship to which the certificate and declaration relate; and whoever, after due publication of such certificate and declaration as hereinbefore provided, disposes of, or causes, permits or suffers any corpse to be disposed of, contrary to this enactment, shall be punished with fine which may extend to one thousand rupees for each offence:

Proviso.

Provided always, that before any such places are closed under the provisions

of this section, the Corporation shall, with the sanction of Government, provide out of the municipal fund such fitting places to be used for the disposal of the dead as may be required in place thereof.

Prohibited burial-places may be re-opened.

249A. If upon the certificate of the Health-officer and after personal inspection the Commissioner shall be satisfied that any place formerly used for the disposal of the dead which has been closed under the provisions of the last preceding section has by lapse of time become no longer dangerous to health and may without danger be again used for the said purpose, he shall report his opinion to the Town Council.

It shall thereupon be lawful for the Commissioner, with the concurrence of the Town Council, to forward to Government a certificate to the above effect, upon receipt of which the Governor in Council may, after such further inquiry, if any, as he shall deem fit to cause to be made, issue an order for the re-opening of the said place for the purpose aforesaid.

Registration at place for disposal of dead.

250. At every place used for the disposal of the dead there shall be a Police officer or other person duly appointed by the Commissioner who shall enter in a register the name and late residence of any person whose body is brought to be disposed of.

The register shall be signed by the undertaker or other person conducting the funeral, who shall be bound to give the information required.

The register so kept shall be forwarded daily to the Health-officer by the Police-officer or other person appointed aforesaid.

Any person who shall refuse or neglect to give any information which it is his duty to give under this section, shall be liable to a penalty not exceeding one hundred rupees for each offence.

Penalty for illegal disposal of dead;

251. Whoever shall dispose of, or cause to be disposed of, any corpse or any part of a corpse otherwise than at or in some lawful place for the disposal of the dead;

for burial at insufficient depth.

or whoever shall bury, or cause to be buried, any corpse or part of a corpse in any burial-ground in a grave constructed of masonry, or otherwise, in such manner that the surface of the coffin, or the surface of the body where no coffin is used, shall be at a less depth than six feet from the surface of the ground;

Distance between graves.

or whoever shall build or dig, or cause to be built or dug, any grave in any burial-ground at a less distance than two feet from the margin of any other existing grave;

Position of graves.

or whoever shall build or dig, or cause to be built or dug, a grave in any burial-place in any other line than that marked out by the Commissioner;

Re-opening graves.

or whoever, without the special sanction of the Health-officer, shall for the burial of another body re-open a grave already occupied or used;

Cremation.

or whoever shall bring or convey, or cause to be brought or conveyed, any

corpse or part thereof to any burning-ground, and shall not burn or cause the same to be burnt within six hours after its arrival at the said burning-ground;

Incomplete cremation

or whoever, when burning, or causing to be burnt, any corpse or part of a corpse in any burning-ground, shall permit the same or any part thereof to remain without being completely reduced to ashes, or shall permit the cloths or other articles connected with the burning of such corpse to remain at or near such ground unless the same be completely reduced to ashes,

Corpses not decently covered

or whoever shall carry a corpse or part of a corpse through any highway not decently covered,

Leaving corpse on highway

or whoever, while carrying any corpse, or part of a corpse, through municipal limits shall leave the same on or near any public highway, for any purpose whatever,

Improper removal of corpse after dissection

or whoever shall remove any corpse or part of a corpse that has been kept or used for purposes of dissection otherwise than in a closed receptacle or vehicle,

shall, for each offence, be liable to a penalty not exceeding fifty rupees.

New burial-grounds, &c., beyond limits of city

252 Whenever the Commissioner, with the sanction of the Corporation and of the Government, shall have established any places for disposal of the dead beyond the limits of the city of Bombay, for the use of the inhabitants of the said city, all bye-laws for the management of such places within the city of Bombay shall apply and have full force therein,

Bye laws

and all offences against those bye-laws, or against the provisions of this Act, shall be cognizable by the Presidency Magistrates, as if such places were within the city of Bombay

Proviso.

Provided the limits of such places be duly notified in the Government Gazette, and plans thereof lodged with the several Presidency Magistrates.

Registration of Births and Deaths

Commissioner to keep register and appoint registrars of births and deaths

253 The Commissioner shall keep in his office a register of all births and deaths within the city, and he shall divide the city into registration-wards or districts, and for every such ward or district he shall appoint a person or persons to be registrar or registrars of births and deaths within the same.

Registrar to live in district, list of registrars to be published, &c

254. Every registrar shall reside within the district of which he is registrar, and shall cause his name, with the addition of registrar of births and deaths for the district for which he shall be so appointed, to be placed in some conspicuous place on or near the outer-door of his dwelling-house, and the Commissioner shall cause to be printed and published a list containing the name and place of abode of every registrar of births and deaths in the city.

Commissioner

255 The Commissioner shall provide a sufficient number of register-books

to have register-books prepared and numbered.

for making therein entries of all births and deaths which may take place in the city, according to the forms prescribed in schedules G and H to this Act annexed, and the pages of every such book shall be numbered progressively from the beginning to the end.

Registrar to make inquiries as to births.

256. Every registrar of births shall inform himself carefully of every birth which shall happen in his district, and shall learn and register, as soon as conveniently may be after the event, without fee or reward, the particulars touching every such birth, according to the form in schedule G to this Act annexed

Information of birth to be given within one week.

257. The parents or guardians of every child born in the city, or in case of the death, illness, absence or inability of the same, the occupier of the house in which such child shall have been born, or some person present at or in attendance during the birth, shall, within one week next after the day of every such birth, give information to the registrar of the district, according to the best of his or her knowledge and belief, of the several particulars hereby required to be known and registered touching the birth of such child.

Notice of birth to be given to registrar.

258. Any person whose duty it shall be to give information to a registrar under the preceding section who shall refuse or neglect to give such information within the above-mentioned time, shall be liable to a penalty not exceeding one hundred rupees for each offence.

Information of death to be given at place of funeral.

259. Information of the several particulars required by schedule H to this Act annexed concerning the death of every person dying in the city shall be given in writing if the informant can write, otherwise orally, to the Policeman or other person appointed to receive it at the place of burial, burning or exposure, as the case may be, by some one of the persons present at the death or in attendance in the last illness, or, in case of disability or default of all such persons, by the undertaker or other person conducting the funeral, and every one of these may be required thus to give or cause to be given the information, and to attest its correctness to the best of his knowledge and belief by the signature of his name, his designation and residence.

Every Policeman or other person whose duty it shall be to receive information at the funeral-places concerning deaths shall truly register the same, and shall every morning render or cause to be rendered at the office of the Commissioner of Police the completed and signed register made by him during the preceding twenty-four hours.

The Commissioner of Police shall immediately on receiving all the reports of the preceding day transmit them to the Municipal Commissioner to be embodied according to districts in English form in his register-book, and to be reduced to such tabular forms as may be most useful for sanitary and other purposes.

Any person who shall refuse or neglect to give any information which it is his duty to give under this section, shall be liable to a penalty not exceeding one hundred rupees for each offence.

Taking of a Census.

Enumeration of inhabitants.

260. At such time and in such manner as shall be directed from time to time by the Commissioner, with the sanction of the Corporation and of Government, an enumeration shall be made of the persons who at the time of making such enumeration shall be within the city:

Provided always that, one clear month previous to such enumeration being commenced, notice of the intention to make the same, with the date or dates upon or within which it is intended to be made, and all other necessary particulars, shall be published in the Government Gazette, and in such English and vernacular newspapers in Bombay as to the Government shall seem fit.

Commissioner to superintend enumeration.

261. The Commissioner shall superintend the taking of such enumeration; and shall appoint such enumerators, and make such arrangements generally, as may seem to him necessary, for the purpose of such enumeration, and all expenses incurred in respect of such enumeration shall be defrayed out of the municipal fund.

Delivery of schedules and returns.

262. Each enumerator or other subordinate officer appointed under this Act shall, agreeably to his instructions, leave at each house or place of residence within his district, four days at least before the time appointed for the collection of the completed returns or census, a blank schedule or return, to be of such form, and containing such particulars, as Government may approve, to be duly filled up and signed by the owner, tenant or principal occupant of the said house or place of residence.

Occupier of house, &c., to furnish required information.

263. Any person wilfully neglecting or refusing correctly to fill up and affix his signature to any such schedule or return so left at his house or place of residence, or who shall neglect or refuse to return the same to the enumerator or other officer when called upon so to do, or to furnish the necessary information to an enumerator to fill up the same for him if he do not know how to write, shall be liable to a penalty not exceeding two hundred rupees, and may also be detained in custody until he shall have correctly filled up and signed the said schedule or return:

Proviso.

Provided that it shall be the duty of the enumerator, if required, to fill up all schedules or returns for those who are unable to write.

Occupier to amend returns if found defective.

264. Any enumerator or other subordinate officer employed in the collection of such schedules or returns, if he shall find any of the same defective, or in any respect improperly filled in, shall return the same to the occupant of the house or residence to which they relate, together with a written or printed

notice requiring that the same be duly filled in or amended within a specified period not less than twenty-four nor more than forty-eight hours;

and if such occupant shall then fail so to fill in or amend any such schedule or return, he shall, on conviction, be liable to a fine not exceeding two hundred rupees, and may also be detained in custody until he shall correctly fill in or amend the said schedule or return.

Military and naval officers and others, to act as enumerators.

265. Any military or naval officer in command of bodies of military or naval men, or of vessels-of-war, or any master or person in charge of a merchant-vessel, or nákodá, or tándel of a vessel or boat, or any person in charge of a lunatic asylum, hospital or prison, or of any public or private charitable or scholastic institution, or any keepers of hotels or lodging-houses, shall, if required, act as enumerators for the purpose of taking account of persons under their command or charge, or abiding in their houses, on the night immediately preceding the day to be appointed for the making of such enumeration;

every person so required to act as an enumerator shall receive and conform to all instructions in writing which may be issued to him by the Commissioner in that behalf.

Returns of houseless persons.

266. The Commissioner shall obtain by such ways and means as shall appear to him best adapted for the purpose, and as shall be sanctioned by the Government, returns of the particulars required by this Act with respect to all houseless persons, and all persons who during the said night preceding the day to be appointed for the making of such enumeration were on out-door night-duty, or for any other reasons were not abiding in any house of which account is to be taken by the enumerators.

Power to make Bye-laws.

Commissioner may make bye-laws with sanction of Town Council.

267. The Commissioner may, with the sanction of the Town Council, from time to time, make such bye-laws as he thinks fit for the several purposes hereinafter enumerated, and from time to time repeal, alter or amend any such bye-laws, provided such bye-laws be not repugnant to any law now in force, or which at the time when such bye-laws come into operation shall be in force, or to the provisions of this Act, and provided also such bye-laws be reduced into writing and have affixed thereto the signature of the Commissioner; and if affecting other persons than the officers or servants of the Commissioner, shall be confirmed and published as herein provided; that is to say:—

(*a*) for the regular, efficient and faithful performance of their several duties by all officers and servants of the Corporation subordinate to the Commissioner:

(*b*) for the use, in a manner consistent with the public safety, health and

convenience, of all public tanks, wells and other arrangements for water-supply of every description, public bathing, washing and drying places and the like:

(*c*) for the regulation of buildings in the matters directed by this Act:

(*d*) for the inspection of every place within the city used for any of the purposes mentioned in sections 225, 226 and 227 of this Act, and for the management and conduct of such business, whether the same be newly established or not:

(*e*) for the control and supervision of all butchers carrying on business within the said city, or at an authorized municipal slaughter-house, and for the inspection and regulation of all slaughter-houses or places used for the keeping, selling or slaughtering of animals, or the flesh thereof, within or for the city, and for the management and conduct of the business therein or thereat, and for keeping the same in a cleanly and proper state:

(*f*) for the inspection of all markets, shops and of all places in the last-preceding sections mentioned, and for the management and conduct of the business therein, and for keeping the same in a cleanly and proper state:

(*g*) for the regulation of all matters connected with the good order of all places for the disposal of the dead, due regard being had to the religious usages of the several classes of the community:

(*h*) for ensuring, by such forms and regulations as he may deem requisite, the carrying out of the provisions of the Act regarding registration of births and deaths and taking a census:

(*i*) and generally for carrying out any of the provisions of this Act.

Commissioner and Town Council may impose penalties for breach of bye-laws.

268. The Commissioner and the Town Council by the bye-laws so to be made by them may impose such reasonable penalties as they think fit, not exceeding rupees twenty, for each breach of such bye-laws, and in case of a continued breach, further penalties not exceeding rupees ten for each day such breach is continued after notice from the Commissioner to abstain from such breach:

Provided always, that such bye-laws be so framed as to allow the Magistrate before whom any penalty imposed thereby is sought to be recovered, to order the whole or part only of such penalty to be paid, or to remit the whole penalty.

Bye-laws to be confirmed by Government and Corporation.

269. No bye-laws made by the Commissioner and Town Council under the authority of this Act, except such as relate solely to the officers or servants of the Corporation subordinate to the Commissioner, shall come into operation until the same be confirmed by the Corporation at a special general meeting, and thereafter by Government.

Notice to be given of application for

270. No such bye-laws shall be confirmed by the Corporation unless notice of the intention to apply for a confirmation of the same have been given in

confirmation of bye-laws.

the Government Gazette, and in at least one of the daily English newspapers, and in one Guzaráthí daily newspaper, and one Maráthí newspaper circulating within the limits of the city, one month at least before the hearing of such application;

and any person desiring to object to any such bye-law, on giving to the Commissioner notice of the nature of his objection ten days before the hearing of the application for the allowance thereof, may by himself, or his Counsel, attorney or agent, be heard thereon, but not so as to allow more than one objecting party to be heard on the same matter of objection.

Copy of proposed bye-laws to be kept for inspection at Commissioner's office one month before application for confirmation.

271. For one month at least previous to any such application for confirmation by the Corporation of any bye-law, a printed copy of the proposed bye-law shall be kept at the principal office of the Commissioner, and all persons may at all reasonable times inspect such copy without fee or reward, and the Commissioner shall furnish every person who applies for the same with a copy thereof, on payment of one rupee.

Bye-laws to be published after confirmation, and to be open to inspection without fee.

272. Such bye-laws when confirmed by Government shall be published in the Government Gazette, and such bye-laws shall be printed, and the officer of the Commissioner appointed by him for the purpose shall deliver a printed copy thereof to every person applying for the same on the payment of the sum of two annas for each copy, and the fact of such bye-laws being obtainable at the said price on application to the said officer, and the said officer's name, and the place where such copies are to be obtained, shall be made known by the Commissioner from time to time by advertisement in such of the local newspapers as he shall deem fit, and copies thereof shall be printed and placed on boards, which shall be hung up on the front or in some conspicuous part of the principal office of the Commissioner, and also in other places of public resort throughout the city, and in some conspicuous part of the works or locality to which the same relate, and such boards with the bye-laws thereon shall be from time to time renewed as occasion requires; and shall be open to inspection without fee or reward;

and any officer or servant of the Commissioner who does not allow the same to be inspected at all reasonable times, shall, for every such offence, be liable to a penalty not exceeding fifty rupees.

Force of bye-laws, and Judicial notice to be taken

273. Such bye-laws when so confirmed and published shall be binding upon and be observed by all parties, and shall be sufficient to justify all parties acting under the same; and all Courts and Magistrates shall take judicial notice of such bye-laws, and of the confirmation and publication of the same.

Penalty for injuring copies of bye-laws

274. Any person who destroys, pulls down, injures or defaces any boards on the premises of the Commissioner or elsewhere on which any bye-law of the

Commissioner is printed or placed, shall, for every such offence, be liable to a penalty not exceeding fifty rupees. kept for public inspection.

275. The Government, notwithstanding that any bye-law has been confirmed and published as hereinbefore provided, may, at any time subsequent to such confirmation and publication, if it shall see fit, repeal any such bye-law, and in case of such repeal of any bye-law the same shall at once cease to have any operation except as to any act done or a breach of such bye-law committed before such repeal thereof, and every such repeal of any bye-law shall be published in the Government Gazette, and in at least one of the daily English newspapers, and in one daily Guzaráthí newspaper, and one Maráthí newspaper published in Bombay; and all Courts and Magistrates shall take judicial notice of such repeal of any bye-law under this section. Government may repeal bye-laws. Repeal to be published.

276. All bye-laws made under the provisions of any Act repealed by this Act, and which bye-laws are in force at the time when this Act comes into operation, shall continue to be in force, and judicial notice shall continue to be taken thereof by all Courts and Magistrates until the same shall be repealed, altered or amended; Existing bye-laws to continue in force till repealed.

and such repeal, alteration or amendment, when it takes place, shall be effected in the manner provided for the repeal, alteration and amendment of bye-laws made under this Act.

VII—General Provisions for carrying out the Purposes of the Act.

277. When any license is granted by the Commissioner under the provisions of this Act, or when permission is given by the Commissioner for making any temporary erection, or for putting up any projection, the Commissioner may charge a fee for such license or permission, and the rates of the fees to be so charged shall be from time to time adjusted by the Commissioner, with the sanction of the Corporation and of the Government. Fees for licenses.

When permission or license is given for the temporary occupation of any ground belonging to the Corporation, the Commissioner may charge rent for such ground according to the time the occupation may continue, at such rates as may from time to time be fixed by him.

278. When any notice, schedule, summons, bill or other document is required by this Act to be given or presented to the owner or occupier of any house or land, such document may be served on or presented to the owner or occupier, or one of the owners or occupiers, of such house or land, or left with some adult member or servant of his family; Service of notice on owners and occupiers of buildings and lands.

or if it cannot be so served or presented, or if there be no occupier, it may be put up on some conspicuous part of such house or land; and it shall not be necessary in any such document to name the occupier or the owner:

Proviso.

Provided always that, when the owner or occupier and his residence are known to the Commissioner, it shall be his duty, if such owner or occupier be residing within the city, to cause every document required to be given to the owner or occupier of any house or land, to be served on or presented to such owner or occupier, or left with or presented to some adult male member or servant of his family;

and if the owner or occupier be not resident within the city, he shall send every such notice by post addressed to his residence.

Notice may be printed.

279. Every notice, schedule, summons, bill or other document required to be given or presented by the Commissioner by this Act, shall be in writing or in print, or partly in writing and partly in print; and every such notice shall be deemed to be properly signed by the person giving the same if the name or signature of such person shall be signed, stamped or printed at the foot of such notice by the person giving or presenting the same, or by some person authorized by him to sign, stamp or print his name thereto on his behalf.

Service of notices.

Second.—Whenever by this Act any notice, schedule, summons, bill or other document is to be issued to any person, the same may be served or presented by any person or persons authorized by the Commissioner in writing to serve notices and summonses.

Commissioner, in default of owner or occupier, may execute works and recover expenses.

280. Whenever, under the provisions of this Act, any work is required to be executed by the owner or occupier of any house or land, and default is made in the execution of such work, the Commissioner, whether any penalty is or is not provided for such default, may cause such work to be executed; and the expenses thereby incurred shall be paid to him by the person by whom such work ought to have been executed, and shall be recoverable as hereinafter provided.

Power to levy charges on occupier, who may deduct same from rent.

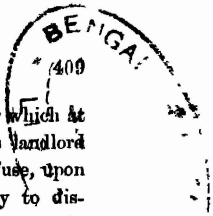
281. If the defaulter be the owner of the house or land, the Commissioner may, by way of additional remedy, whether an action or proceeding has been brought or taken against such owner or not, require the payment of all or any part of the expenses payable by the owner for the time being from the person who then, or at any time thereafter, occupies the house or land under such owner;

and in default of payment thereof by such occupier on demand, the same may be levied by distress of the goods and chattels of such occupier.

Every such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as is so paid by or recovered from such occupier in respect of any such expenses.

Occupiers not liable for more than amount of rent due.

282. No occupier of any house or land shall be liable to pay more money in respect of any expenses charged by this Act on the owner thereof than the amount of rent due from him for the premises in respect of which such



expenses are payable at the time of the demand made upon him, or which at any time after such demand and notice not to pay the same to his landlord has accrued and become payable by him, unless he neglect or refuse, upon application made to him for that purpose by the Commissioner, truly to disclose the amount of his rent, and the name and the address of the person to whom such rent is payable;

but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall be upon such occupier:

Provided further that nothing herein contained shall be taken to affect any special contract made between any such person, owner or occupier, respecting the payment of the expense of any such works as aforesaid. Proviso.

283. Whenever default is made by the owner of any house or land, in the execution of any work required to be executed by him, the occupier of such house or land may, with the approval of the Commissioner, cause such work to be executed, and the expense thereof shall be paid to him by the owner, or the amount may be deducted out of the rent from time to time becoming due from him to such owner. Occupier, in default of owner, may execute works, and deduct expenses from rent.

284. If the occupier of any house or land prevent the owner thereof from carrying into effect, in respect of such house or land, any of the provisions of this Act, after notice of his intention so to do has been given by the owner to such occupier, a Presidency Magistrate, upon proof thereof and upon application of the owner, may make an order in writing requiring such occupier to permit the owner to execute all such works, with respect to such house or land, as may be necessary for carrying into effect the provisions of this Act, and may also, if he think fit, order the occupier to pay to the owner the costs relating to such application or order; Proceedings if occupier opposes execution of Act.

and if, after the expiration of eight days from the date of the order, such occupier continue to refuse to permit such owner to execute such works, such occupier shall, for every day during which he so continues to refuse, be liable to a penalty not exceeding fifty rupees;

and every such owner, during the continuance of such refusal, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

285. The Commissioner shall, for the purposes of this Act, have power by himself or any officer authorized by him for the purpose, between 5 A.M. and 7 P.M., to enter into and upon any house, place, works or land, as well for the purpose of making any survey or inspection which he may be entitled to make, as for the purposes of executing any work authorized by this Act to be executed by him, without being liable to any legal proceedings or molestation Power to enter upon lands for purposes of Act.

whatsoever on account of such entry, or of anything done in any part of such house, place, works, or land, in pursuance of this Act:

Proviso.

Provided that, except when herein otherwise provided, the Commissioner or his said officers shall not enter upon any dwelling-house which may be occupied at the time, unless with the consent of the occupier thereof, without previously giving the said occupier twenty-four hours' notice in writing of his or their intention to do so.

Notice to be given before entry of houses to enable females to retire.

286. Whenever, under the provisions of this Act other than sections 228 and 285, the Municipal Commissioner, or others acting under his orders or authority, or having themselves authority under this Act, shall enter into any dwelling-house for purposes of inspection or for any other purpose, sufficient notice must be given to enable the females or occupants of any zanáná or apartments appropriated to females, to remove to another part of the building which either has been inspected or is not required to be inspected; and in all cases of inspection, due regard, compatible with the exigencies of this Act, shall be paid to the religious and social usages of the occupants.

Writ or process not to issue against Commissioner or his officers till after one month's notice of cause of action.

287. No writ or process shall be issued against or served upon the Corporation or upon the Commissioner or any of his officers, or any person acting under the direction of the Commissioner, for anything done or intended to be done under the powers of this Act, until the expiration of thirty days after notice in writing shall have been delivered or left at the office of the Commissioner, or at the place of abode of the intended defendant, stating with reasonable particularity the cause of such action, and the name and the place of abode of the intended plaintiff, and of his attorney or agent in the cause, and upon the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action except such as is stated in the notice so delivered, and unless such notice be proved, the Court shall find for the defendant;

and every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards;

and if any person to whom such notice of action is given shall, before action brought, tender sufficient amends to the complainant, such complainant shall not recover in any such action when brought, and the defendant shall be entitled to be paid his costs as between attorney and client by the complainant; and if no such tender shall have been made, it shall be lawful for the defendant in such action, by leave of the court where such action shall be pending, at any time before issue framed, to pay into court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

Commissioner

288. The Commissioner may, with the sanction of the Town Council,

make compensation out of the municipal fund to all persons sustaining any damage by reason of the exercise of any of the powers vested in the Commissioner, his officers or servants, under and by virtue of this Act. may make compensation out of municipal fund.

289. Except as herein otherwise provided, in all cases when compensation, damages, costs or expenses are by this Act directed to be paid, the amount, and, if necessary, the apportionment of the same in case of dispute, shall be ascertained and determined by the chief Presidency Magistrate. Compensation, damages and costs to be determined by chief Presidency Magistrate.

290. In any case referred to the determination of a Presidency Magistrate under this Act, it shall be lawful for the said Magistrate, upon the application of either party, to summon the other party to appear before it at a time and place to be named in such summons; and every such summons shall be served in case of the Commissioner by delivering to him the original or copy thereof, or leaving the same at his office, and in case of any other person by delivering the original or a copy thereof to the person summoned, or by leaving the same at his usual place of abode with some adult male member or servant of his family. Method of proceeding before Magistrate.

Upon the appearance of the parties, or, in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such Magistrate to hear and determine such question, and for that purpose to examine such parties or any of them and their witnesses on oath; and the cost of every such inquiry shall be in the discretion of such Magistrate, who shall determine the amount thereof and by whom and in what proportions the same shall be paid.

291. If the amount of compensation, damages, costs or expenses ascertained in the manner above described, be not paid by the party liable to pay the same within seven days after demand, such amount may be recovered under a warrant from the said Magistrate by distress and sale of the goods and chattels of the Corporation, or of such other party, as the case may be and the overplus arising from the sale thereof, after satisfying such amount and the cost of the distress and sale, shall be returned on demand to the party whose goods shall have been distrained: Recovery of damages by distress.

Provided that it shall be lawful for the Commissioner, anything contained in this section or in the last two preceding sections to the contrary notwithstanding, to levy any expenses incurred by him under the provisions of section 280 as if the same were an arrear of any rate due under this Act; but if the amount of such expenses or the right to levy the same is disputed, the Commissioner shall defer proceedings for the recovery of the said expenses pending a reference of the case to the determination of a Presidency Magistrate, and after such determination shall proceed to recover only such amount, if any, as may be allowed in the said determination. Proviso.

Suit on failure to realize by distress.

292. Instead of proceeding by distress and sale, or, in case of failure to realize by distress the whole or any part of any compensation, expenses, charges or damages awarded under the provisions of this Act, the person liable to pay the same may be sued in any Court of competent jurisdiction.

Land may be acquired under law for acquisition of land for public purposes.

293. When there is any hindrance to the permanent or temporary acquisition upon payment of any land or building required for the purpose of this Act, the Government, upon the application of the Commissioner, approved of by the Town Council, and after such inquiry as may be thought proper, may declare that the land or building is needed for a public purpose, and may order proceedings for obtaining possession of the same for Government, and for determining the compensation to be paid to the parties interested, according to any laws now or hereafter to be in force for the acquisition of land for public purposes.

And the Government may vest such land or building in the Corporation on their paying the compensation awarded.

Power to sell lands or buildings.

294. The Commissioner, with the sanction of the Corporation, may, on their behalf, sell any lands or buildings vested in them by virtue of this Act, or acquired by them for the purposes thereof, either together or in parcels, as he may find most convenient and advantageous, and the proceeds of such sale shall be paid to the credit of the municipal fund.

Commissioner may direct prosecution.

295. The Commissioner may direct any prosecution for any nuisance whatsoever, and may order proceedings to be taken for the recovery of any penalties and for the punishment of any persons offending against the provisions of this Act, and may order the expenses of such prosecution or other proceedings to be paid out of the municipal fund:

Proviso.

Provided that any inhabitant of a place may complain of the existence of a nuisance before a Presidency Magistrate, and the Magistrate may inquire into the complaint so made, and may make an order upon the Commissioner to put in force the provisions of this Act for abating or remedying the same, which the Commissioner shall be bound to obey; and the said Magistrate may, if it[a] sees fit, direct the Commissioner to pay, and he shall in such case pay to the complainant, out of the municipal fund, the costs of and relating to the said application and order, including compensation for the complainant's loss of time.

No person liable to penalty unless complaint made within three months after offence.

296. No person shall be liable to any fine or penalty under this Act, for any offence made cognizable before a Magistrate, unless the complaint respecting such offence shall have been made before a Magistrate within three months next after the commission of such offence.

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[a] *Sic.* Read "he."

297. If through any act, neglect or default, on account whereof any person shall have incurred any penalty imposed by this Act, any damage to the property of the Corporation shall have been committed by such person, he shall be liable to make good such damage, as well as to pay such penalty, and the amount of such damage shall, in case of dispute, be determined by the Magistrate by whom the party incurring such penalty shall have been convicted; and on non-payment of such damage on demand, the same shall be levied by distress, and such Magistrate shall issue his warrant accordingly. Damage to municipal property to be made good in addition to penalty.

298. Whenever the Commissioner shall have incurred any expense in executing any of the works which under this Act the owners of any houses, buildings or lands are required to execute, the Commissioner may either recover the amount of such expenses in the manner hereinbefore provided, or, if he think fit, may take engagements from the said owners for the payment by instalments of such sums as will be sufficient to defray the whole amount of the said expenses, with interest thereon at the rate of nine per centum per annum, within a period not exceeding five years, and such sums when due may be recovered by the same process by which rates may be recovered under this Act. Recovery of expenses on account of improvement to private property.

299. Every fine or penalty imposed under or by virtue of this Act, or of any bye-law made in pursuance thereof, may, except in cases otherwise provided for, be recovered by summary proceeding before a Presidency Magistrate on information exhibited by order of the Commissioner, and in default of payment of such fine or penalty, the same may be levied under the warrant of such Magistrate by distress and sale of goods of such offender: Recovery of fines and penalties.

Provided that offences under sections 143 and 144 of this Act committed beyond the limits of the city, may be tried before any Magistrate having jurisdiction in the place where the offence was committed. Proviso.

300. All fines and penalties, and all sums levied or payable under this Act, shall be paid to the Commissioner, and shall be paid by him to the credit of the municipal fund. Fines and penalties to be credited to municipal fund.

301. When any person shall be served with a summons under this Act, and shall fail to attend before the Magistrate issuing such summons, he shall be liable to a fine not exceeding rupees twenty for every such offence, and, in default of payment, to imprisonment for one week if the fine be not sooner paid; Penalty for failing to answer summons.

and if such person shall not appear according to the tenor of the summons, the Magistrate, upon proof of the service of the summons, may proceed, in all cases which are not of a criminal nature, if no sufficient cause shall be shown for the non-appearance of the person charged, to hear and determine the case in his absence.

302. No distress levied by virtue of this Act shall be deemed unlawful, nor Distress not

unlawful for want of form.

shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

Sinking funds for payment of debts.

303. It shall be obligatory on the Corporation, and they are hereby required, to set apart out of the rates and taxes collected under this Act such sums as may be necessary to keep up the sinking funds prescribed by section 257 of (Bombay) Act II of 1865,[a] with reference to any loans borrowed under the powers conferred on the Corporation of the Justices by sections 253, 254, 255, 256, 257 and 258 of the said Act, which shall not have been liquidated at the time this Act comes into operation.

Definition of "Health-officer."

304. The executive officer of health named in this Act shall be deemed to be the consulting officer of health named in Bombay Act VI of 1867.[b]

Saving of prerogatives of Crown.

305. Nothing in this Act or in any other Act affecting the municipality of Bombay shall take away or abridge in any action or suit the legal rights, privileges and prerogatives of Her Majesty, Her heirs and successors; but in all actions and suits instituted by, or against, Her Majesty's Secretary of State for India in Council, and in all proceedings and matters connected therewith, the said Secretary of State may exercise and enjoy all such rights, privileges and prerogatives as are for the time being exercised and enjoyed by Her Majesty, Her heirs and successors, as if the Crown were actually a party to such action or suit.

306.—[*Repealed by Act No. XII of 1876.*]

307.—[*Repealed by Bombay Act No. IV of 1878.*]

Short title.

308. This Act may be cited for all purposes as "The Bombay Municipal Act of 1872."

SCHEDULE A.

(*Referred to in section 14*).

TAX ON CARRIAGES AND ANIMALS.

	Rates per Quarter. Rs	A	P.
On every four-wheeled carriage on springs ...	6	0	0
On every two-wheeled carriage on springs except Native hackeries	4	0	0
On every Native hackery used for riding in, and drawn by bullocks	7	8	0

[a] Repealed by this Act, sec. 1. [b] See *supra*, p. 271.

	Rates per Quarter. Rs. A. P.
On every labour-cart and labour-hackery	4 8 0
On every horse, pony or mule of the height of 12 hands or upwards	7 8 0
On every horse, pony or mule of height less than 12 hands	3 12 0

SCHEDULE B.

	Rates. Rs. A. P.
Grain of all sorts ... ... per khandí ...	0 4 0
Wines and Spirits ... ... „ gallon ...	0 4 0
Beer ... ... „ gallon ...	0 0 6
Sugar, including Molasses and Gur, 1½ per cent. on tariff-value.	
Ghee ... ... per Bombay maund	0 10 0
Timber, excluding railway-sleepers, 2½ per cent. on market-value.	
Firewood ... ... per khandí ...	0 2 0

SCHEDULE C.

(*Referred to in section 126*).

TAKE notice that the Municipal Commissioner demands from (you) the sum of due from (you) [*here describe the property or thing upon which the rate or tax is imposed*] for the months of 18 ; and that if the sum due is not paid into the said Commissioner's office at , or if sufficient cause for the non-payment of the sum is not shown to the Commissioner, within fifteen days from the service of this notice, a warrant of distress will be issued for the recovery of the same with costs.

(*Signature of the Municipal Commissioner*).

Date_____

SCHEDULE D.

(*Referred to in section 26*).

DISTRESS WARRANT.

To [*here insert the name of the officer charged with the execution of the warrant*].

WHEREAS of has not paid, or shown sufficient cause for the non-payment of, the sum of

rupees due for the rates (*or* taxes) (*or* rates and taxes) mentioned in the margin for the months of ( ) 187 , although the said sum has been duly demanded in writing from the said , and fifteen days have elapsed since the service of the notice of demand: THIS is to command you to distrain the goods and chattels of the said (*or, as the case may be,* any goods and chattels found on the premises referred to) to the amount of the said sum of rupees, and such further sum as may be sufficient to defray the charges of taking, keeping and selling such distress; and if within five days next after such distress the said sum shall not be paid, together with such further sum as may be sufficient to defray the charges of taking and keeping such distress, to sell the said good and chattels; and having paid and deducted out of the proceeds of the sale the said sum of rupees, and the charges of taking, keeping and selling such distress, to return the surplus, if any, on demand, to the person whom you shall find in possession of the said goods and chattels. If sufficient distress cannot be found of the goods and chattels of the said , you are to certify the same to me, together with this warrant.

[L. S.] the Municipal Commissioner.

SCHEDULE E.

(*Referred to in section 130*).

FORM OF INVENTORY AND NOTICE.

(*State particulars of goods seized*).

TAKE notice that I have this day seized the goods and chattels specified in the above inventory, for the sum of rupees due for the rates (*or* taxes) mentioned in the margin for the months 187 ; and that unless you pay into the office of the Municipal Commissioner the amount due, together with the costs of this distress, within five days from the day of the date of this notice, the goods and chattels will be sold.

(*Signature of the Officer executing the Warrant of Distress*).

Date

SCHEDULE F.

(*Referred to in section 151*).

TABLE OF FEES PAYABLE IN DISTRAINTS UNDER THIS ACT.

Sum distrained for.	Fee.
	Rs. A.
Under 5 rupees	0 4
Rupees 5 and under 10 rupees	0 8
„ 10 „ 15 „	0 12
„ 15 „ 20 „	1 0
„ 20 „ 25 „	1 4
„ 25 „ 30 „	1 8
„ 30 „ 35 „	1 12
„ 35 „ 40 „	2 0
„ 40 „ 45 „	2 4
„ 45 „ 50 „	2 8
„ 50 „ 60 „	3 0
„ 60 „ 80 „	3 12
„ 80 „ 100 „	4 8
Above 100 „	5 0

The above charge includes all expenses except when peons are kept in charge of property distrained, in which case four annas must be paid daily for each man.

SCHEDULE G.

REPORT OF BIRTH.

Date of birth ... ...

Abode . . ..

Parents' . . { Name ... ...
Occupation ... .

Mother being ... { Only wife now alive . ...
One of 2 wives both now alive ...
One of 3 or more wives all now alive ...

Mother being unmarried ... ...

Child ... { Born alive .. ... .
Still-born ... ...
Sex .. ..
Race or caste ... ...

Remarks.

(*Signature*).

NOTE.—In reporting the birth of a *Hindú* mention the particular *sub-division* of *caste*. Let *Christians* be separated into those of *pure European* parentage; those of *mixed blood*, namely, *Indo-Europeans*; and those of *pure Asiatic* parentage, namely, *Native Christians*. Let *Negro-Africans* or *Sidis* be reported as such, and not as Mussulmans.

SCHEDULE H.

REPORT OF DEATH.

No. of House.

Date of death		
Abode, street or wárí		
Duration of residence in Bombay ...	Years ...	
	Months ..	
	Days ...	
Name		
Sex		
Race or caste		
Age	Years ...	
	Months ...	
	Days ...	
	Still-born ...	
Occupation or trade of deceased or his or her family		
Place of birth		
Country to which family belonged ...		
Cause of death		
Duration of disease	Years ...	
	Months . .	
	Days .	
	Hours ...	

Remarks.

(*Signature*).

ACT No. IV OF 1873.

Received the Governor's assent on the 17th of November, 1873, and the Governor General's assent on the 3rd of February, 1874, and published by the Governor on the 10th of February, 1874.

An Act to amend Bombay Act No. II of 1864, providing for the periodical survey of steam-vessels, and to provide for the examination of engineers of steam-vessels.

Preamble. WHEREAS it is expedient to amend Bombay Act No. II of 1864, providing for the periodical survey of steam-vessels, and to make provision for the man-

agement by competent engineers of steam-vessels plying in the ports, harbours, rivers or waters of the Presidency of Bombay; It is enacted as follows:—

PART I.—Preliminary.

Construction of Act.

1. This Act shall be read together with, and as part of, the said Act II of 1864.

Exemption from Part III.

2. The provisions of Part III of this Act shall not apply to engineers holding certificates of competency or service granted by the Board of Trade under the provisions of 25 & 26 Victoria, chapter 63.

Short title.

3. In citing this Act it shall be sufficient to use the expression, "The Steam-vessel Survey Amendment Act of 1873."

PART II.—Examination of Steam-vessels.

Certain steam-vessels liable to be surveyed twice a year.

4. For section 1 of Act II of 1864, passed by the Governor of Bombay in Council, entitled an "Act to provide for the periodical survey of steam-vessels plying in the ports, harbours, rivers or waters of the Presidency of Bombay," shall be substituted the following section:—

[See *supra*, p. 232.]

Duty of surveyor on boarding steam-vessels.

5. It shall be the duty of any surveyor appointed for the purposes of the said Act II of 1864, on going on board of any steam-vessel arriving in any port or harbour of the Presidency of Bombay, to enquire of the master thereof if there are any passengers on board of such vessel, or if such vessel is intended to carry passengers, or if any certificate has been granted by the British Board of Trade or by any British Indian or British Colonial Government for the same, and in such case to demand the production of the said certificate for his inspection.

And it shall further be the duty of such surveyor to enquire of the master and other officers and the engineers of such steam-vessel whether any injury or damage has been sustained by the said steam-vessel or the machinery of the same, since the date of the issue of such certificate.

Penalty for refusal to answer questions.

And if any such master, officer or engineer shall refuse to answer any question herein directed to be put to him or shall not truly answer the same, he shall be liable to a penalty not exceeding five hundred rupees.

Certificate to be delivered by surveyor.

6. Every such surveyor shall, after satisfying himself that no passenger has arrived by such steam-vessel and that such steam-vessel is not intended to carry passengers, or that such steam-vessel is entitled, under the provisions of section 4 of this Act, to be exempted from survey, deliver to the master of such steam-vessel a certificate under his hand, that such steam-vessel is not

intended to carry passengers or is otherwise exempted from survey under section 4 of this Act, as the case may be, and upon the production of such certificate the proper officer of customs shall grant a clearance, and the proper authority shall assign a pilot to such steam-vessel, anything in the said Act II of 1864[a] to the contrary notwithstanding.

Penalty for receiving passengers on vessel not intended to carry them.

7. If after the issue of a certificate under the preceding section that any steam-vessel is not intended to carry passengers, and during the continuance in force of such certificate, any passenger shall be taken on board of such steam-vessel, the master thereof shall be liable to a penalty not exceeding five hundred rupees.

Powers to investigate cause of explosion or direct special survey.

8. Whenever any boiler-explosion shall occur on board of any steam-vessel either during her voyage to or after her arrival in any port, harbour, river or water of the Presidency of Bombay, or whenever the Governor of Bombay in Council shall have good reason to believe that any steam-vessel lying in any such port, harbour, river or water is, by reason of the defective condition of her hull, equipments or machinery, or by reason of overloading or improper loading, unfit to proceed to sea, without serious danger to human life, the said Governor of Bombay in Council may, if he shall think fit, direct an investigation to be made of the cause of such explosion, or a survey to be made of such steam-vessel and of the hull, equipments, machinery and cargo thereof, and the said Governor of Bombay in Council may, if he shall think fit, order any such steam-vessel to be detained for the purpose of such investigation or survey, and thereupon any officer of customs shall detain such steam-vessel until ordered to be released by the said Governor of Bombay in Council.

Order on receipt of report of investigation or survey.

9. Upon the receipt of the report of such investigation or survey, the Governor of Bombay in Council may, if in his opinion such steam-vessel cannot proceed to sea without serious danger to human life, make such further order as to the detention of such steam-vessel, or as to her release, either absolutely or upon the performance of such conditions with respect to the execution of repairs or alterations or the unloading or reloading of cargo as the said Governor of Bombay in Council may impose, and the said Governor of Bombay in Council may also from time to time vary or add to such order.

Expenses of investigation or survey, by whom to be paid.

10. If upon an investigation or survey held under the provisions of section 8 of this Act any steam-vessel shall be shown to have been at the time of such investigation or survey unfit to proceed to sea without serious danger to human life, the expenses incurred for making such investigation or survey shall be paid by the owner of such steam-vessel.

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[a] See *supra*, p. 232.

But if such unfitness shall not be so shown such expenses shall be borne by the Government.

Section substituted for section 10, Act II of 1864.

11. For section 10 of Act II of 1864, passed by the Governor of Bombay in Council, entitled an "Act to provide for the periodical survey of steam-vessels plying in the ports, harbours, rivers or waters of the Presidency of Bombay," shall be substituted the words following:—

[See *supra*, p. 234.]

Power to appoint ports of survey.

12. It shall be lawful for the Governor of Bombay, by an order to be published in the Government Gazette, to appoint any ports or places in the Presidency of Bombay to be ports of survey for the purposes of the said Act II of 1864 and of this Act.

Power to impose additional fees.

13. It shall be lawful for the Governor of Bombay in Council, from time to time, by an order to be published in the Government Gazette, to direct that in any port or place of survey other than Bombay,[a] in addition to the fees imposed by the said Act II of 1864, there shall be paid for every survey of a steam-vessel in such port or place, by the owner or master of such steam-vessel, such further fee, for or towards the expense of the journey of a surveyor to such port or place, as in such order shall be set forth, and from time to time in like manner to alter, vary or revoke any such order; and every fee so to be payable shall be recoverable by the ways and means in the said Act provided for the recovery of the fees thereby imposed.

PART III.—Examination of Engineers.

Examinations to be instituted for engineers.

14. Examinations shall be instituted for persons who intend to become engineers of steamers, or who wish to procure certificates of competency as hereinafter mentioned.

Examiners and rules of examination to be provided.

15. The Governor of Bombay in Council shall, from time to time, nominate one or more competent persons for the purpose of examining the qualifications of applicants for examination, and may make rules, which shall be published in the Government Gazette, for the conduct of such examination, and as to the qualifications to be required and the fees to be paid by all applicants for examination.[b]

Certificate of competency to be given.

16. Every applicant who is reported by the examiners to have passed the examination satisfactorily, shall receive a certificate of competency to the effect that he is competent to act as engineer, signed by the examiners and countersigned by a secretary to Government.

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[a] As to Karáchí, Kurwar and Surat, see *Bombay Government Gazette*, 16th April, 1874, p. 340.
[b] See *Bombay Government Gazette*, 14th May, 1874, p. 413: 26th October, 1876, p. 974.

Certificate of service to be given.

17. Every person who shall satisfy the examiners that before the passing of this Act he has served for a period of not less than one year as first or only engineer in any steam-vessel, or who has attained or shall attain the rank of first class assistant engineer in the service of Her Majesty, shall be entitled to a certificate of competency.

No clearance if vessel has not certificated engineer.

18. No clearance shall be granted for any steam-vessel other than a steam-vessel holding a certificate granted by the British Board of Trade or by any British Indian or British Colonial Government, unless the master thereof shall satisfy the proper officer of the customs that such steam-vessel has as its engineer an engineer possessing a certificate of competency.

Penalty for plying without certificated engineer.

19. The owner and also the master of any steam-vessel subject to this Act, which shall ply in any of the ports, harbours, rivers or waters of the Presidency of Bombay without having in charge of the engines thereof an engineer possessing a certificate of service or a certificate of competency, shall be liable to a fine not exceeding five hundred rupees.

Power to exempt steam-vessels.

20. It shall be competent to the Governor in Council to exempt wholly or partially from the operation of this Act any steam-tugs, steam-barges or steam-launches.

Withdrawal of certificate.

21. If by means of any inquiry conducted under the provisions of this Act the misconduct, negligence or incompetency of any engineer possessing a certificate of competency is established to the satisfaction of the Governor in Council, it shall be lawful for the said Governor in Council to cancel such certificate, or to suspend the same for such time as to him shall seem fit.

Certificates to be made in duplicate.

22. All certificates of competency shall be made in duplicate, and one part shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded as the Governor in Council shall direct.

A note of all orders made for cancelling, suspending, altering or otherwise affecting any certificate in pursuance of the powers herein contained, shall be entered on the record of certificates.

Copy of certificate to be delivered.

23. Whenever any engineer proves to the satisfaction of the Governor in Council that he has, without fault on his part, lost or been deprived of any certificate already granted to him, a copy of the certificate to which by the record so kept as aforesaid he appears to be entitled shall be delivered to him, and shall have all the effect of the original.

SCHEDULE B.

[See *supra*, p. 238.]

ACT No. V OF 1873.

Received the Governor's assent on the 14th of October, 1873, and the Governor General's assent on the 25th of April, 1874, and published by the Governor on the 12th of May, 1874.

An Act to provide for the periodical inspection and the management by competent Engineers, of Steam-Boilers, and Prime Movers attached thereto, in the City of Bombay and within certain Districts in the Presidency of Bombay.

Preamble. WHEREAS it is expedient to provide for the inspection by competent inspectors, and for the management by competent engineers, of steam-boilers, and prime movers attached thereto, situate in the city of Bombay and in certain districts within the Presidency of Bombay, with a view to the security of persons and property; It is enacted as follows:—

PART I.—PRELIMINARY.

1.—[*Repealed by Act No. XII of 1876.*]

Application of Act. 2. *Clause 1.*—The provisions of this Act shall apply to the city of Bombay and to such districts or places within the Presidency of Bombay as the Governor in Council shall from time to time declare them to be applicable by notification in the Government Gazette.

Limitation of application of Act. *Clause 2.*—Provided that this Act shall only apply to steam-boilers of which the prime movers are of more than ten horse-power nominal, and shall not apply to any locomotive engine used upon any railway in the city of Bombay or in any district to which this Act is made applicable, nor to any steam-vessel in the port of Bombay or in any port or river situate within any district to which this Act is made applicable.

Short title. 3. This Act may be cited as "The Boiler Inspection Act, 1873."

Interpretation-clause. 4. The following words and expressions in this Act shall have the meaning hereby assigned to them, unless where a contrary intention shall appear from the context; that is to say—

"Boiler." the word "boiler" shall include any cylinder or vessel for generating steam under pressure:

"Prime mover." the words "prime mover" shall include any steam-engine, fly-wheel, first driving shaft and pulley attached to any such engine:

"Owner" the word "owner" shall include any agent or hirer using any boiler or prime mover.

PART II.—INSPECTION OF BOILERS.

Power to appoint inspectors.

5. The Government shall be empowered from time to time to appoint one or more inspectors for the purposes of this Act, and from time to time to remove the same or any of them.

Duty of inspectors

It shall be the duty of the inspectors to inspect all boilers, and prime movers attached thereto, in the city of Bombay or in the districts or places of the Presidency of Bombay assigned to them, in the manner hereinafter provided.

Subordination.

Subject to such rules as may from time to time be framed by Government, the inspectors appointed under this Act shall be under the control of the Collector of Bombay or of the Collector of the district in which the boilers and prime movers to be inspected by such inspectors are situated, and it shall be lawful for the Collector of Bombay or for the Collector of any district as aforesaid, from time to time, as he shall think fit, to apply to Government and require the appointment of a commission for the revocation of any certificate on all or any of the grounds mentioned in section 11 of this Act.

Prohibition of use of boiler or prime mover without certificate.

6 It shall not be lawful for the owner of any such boiler or prime mover as aforesaid to use the same, unless a certificate shall have been duly granted in respect thereof in the manner hereinafter provided, and it shall not be lawful for such owner to continue to use such boiler or prime mover after the period for which such certificate shall have been granted or to work it at a pressure higher than that stated in the certificate.

Inspection of boilers and prime movers in Bombay city;

7. The owner of any such boiler or prime mover as aforesaid, in respect whereof a certificate shall not be in force in manner hereinafter described, shall, if such boiler or prime mover be situate in the city of Bombay, before using the same, give notice to an inspector appointed under this Act for the city of Bombay of his intention to use or continue to use the same, and the inspector to whom such notice shall be given shall appoint a time between sun-rise and sun-set, and within four days after the receipt of such notice, for the inspection of such boiler or prime mover, and at such time shall carefully examine such boiler or prime mover and every part thereof,

in district to which Act has been applied.

or if such boiler or prime mover be situate in any district or place to which the provisions of this Act have been made applicable, the owner shall, before using the same, give notice to the Collector of the district in which the said boiler or prime mover is situate of his intention to use or continue to use the same, and the Collector shall cause an inspection and examination as aforesaid to be made by an inspector appointed under this Act within ten days after the receipt of such notice, and shall inform the owner of the date on which the said inspection will take place.

The owner or person in charge of any boiler or prime mover examined by an inspector under the provisions of this section shall afford to such inspector all reasonable facilities for such examination, and all such information as may reasonably be required.

Inspector to give certificate to owner on payment of fee.

8. An inspector making an inspection under this Act of any such boiler or prime mover as aforesaid, if he be satisfied that such boiler or prime mover is in good condition, shall, on payment by the owner or person in charge thereof of fees not exceeding those prescribed in schedule A hereunto annexed, give to the owner a certificate signed by him to that effect, in the form in schedule B to this Act annexed, and such certificate shall state the period for which such boiler or prime mover may be used, and shall cease to be in force on the expiration of such period :

Duration of certificate.

Renewal.

Provided that no such certificate shall be granted for a longer period than 12 months; and provided also that it shall be the duty of the inspector on the request of the owner of any boiler or prime mover in respect of which a certificate has been granted at any time before the expiration of such certificate, to inspect the boiler or prime mover in respect to which the request is preferred; and on being satisfied that the same is in good condition, to renew the said certificate for a further period not exceeding twelve months at his discretion.

Appointment of commission.

9. Government shall as occasion may require appoint commissions for hearing appeals preferred by owners as provided by this Act, or for conducting inquiries on applications made by Collectors under section 5 of this Act, and such commissions shall consist of such person or persons as the Government from time to time shall nominate, and shall endure for such term as the Government shall appoint.

On refusal by inspector to give certificate, reasons to be given.

10. If an inspector refuse to give a certificate to the owner of any boiler or prime mover under section 8 of this Act, he shall be bound to give to such owner, in writing, within twenty-four hours, his reasons for such refusal, and any owner aggrieved by the decision of the inspector may, within one month from the date of the said refusal, lodge with the Collector an appeal, to be heard by a commission appointed under section 9 of this Act.

Appeal.

Procedure on appeal.

The Collector shall thereupon forthwith forward to the commission the petition of appeal, and the said commission shall within four days after the date of the receipt of such petition of appeal, if such boiler or prime mover be situated in the city of Bombay, and within ten days after the date of the receipt of such petition of appeal if such boiler or prime mover be situated elsewhere than in the city of Bombay, inquire into and determine such appeal, and shall, if it think fit, grant a certificate.

Power to

If the commission is of opinion that any appeal is unfounded or frivolous,

award costs for frivolous appeal.

it shall have the power of awarding any sum not exceeding Rs. 50 as costs to be paid by the owner.

The costs when recovered shall be disposed of as directed by section 25 of this Act.

The inquiry shall be held in public, and the decision of the commission shall be final.

Revocation of certificates.

11. Any commission appointed under this Act may revoke any certificate granted under this Act in any case in which the fees for inspection shall not be paid after having been duly demanded, or in any case in which there shall be reason to believe that such certificate has been fraudulently obtained or erroneously granted, or has been granted without sufficient inspection, or in case there shall be reason to believe that the boiler or prime mover in respect whereof such certificate shall have been granted has sustained injury since the granting of such certificate or is not in good condition.

After such revocation the boiler or prime mover in respect whereof a certificate has been revoked shall not again be used until a further inspection shall have been made as required by this Act, and until a certificate shall have been granted by the inspector, with the countersignature of a majority of the said commission.

Rules to be made.

12. Government shall from time to time frame and publish in the *Bombay Government Gazette* rules in conformity with the provisions of this Act regulating the fees payable for certificates and the duties and emoluments of commissioners and inspectors appointed under this Act.

Owner to produce certificate when called upon.

13. The owner of any such boiler or prime mover as aforesaid who shall have obtained a certificate for the same, shall at all reasonable times, during the period for which the same may be in force, be bound to produce such certificate when called upon to do so by any Magistrate having jurisdiction within the city of Bombay if such boiler or prime mover be situate in the said city, or if such boiler or prime mover be situate in any district or place to which this Act is made applicable, when called upon to do so by the Collector of the district or by any person authorized in writing by such Magistrate or Collector to demand its production.

Penalty for refusal.

And any such owner refusing or neglecting to produce such certificate shall be liable on conviction to a penalty not exceeding one hundred rupees.

Penalty for using boiler or prime mover without certificate.

14. The owner of any such boiler or prime mover as aforesaid who shall use the same without a certificate duly obtained and in force in respect thereof under this Act, shall be punished with a fine not exceeding one hundred rupees for every day that he shall use the said boiler or prime mover without such certificate, and if the said owner shall continue to use the same boiler or prime mover as aforesaid after such fine shall have been imposed, he shall be held to

have committed a separate offence, and shall be punished with a further fine not exceeding one hundred rupees for each day after the first conviction during which the offence is continued, and in like manner after each subsequent conviction.

Part III.—Examination of Engineers.

Examinations to be instituted for engineers.

15. Examinations shall be instituted for persons who intend to become engineers for the management of boilers and prime movers, or who wish to procure certificates of competency as hereinafter mentioned.

Examiners and rules of examination to be provided.

16. The Governor of Bombay in Council shall from time to time nominate one or more competent persons for the purpose of examining the qualifications of applicants for examination, and may from time to time make rules which shall be published in the Government Gazette for the conduct of such examination and as to the qualifications to be required and the fees to be paid by all applicants for examination.

Certificate of competency to be given.

17. Every applicant who is reported by the examiners to have passed the examination shall receive a certificate of competency to the effect that he is competent to act as engineer, signed by the examiners and countersigned by a secretary to Government, and every person who shall satisfy the said examiners that he has before the passing of this Act efficiently served for a period of not less than one year as first or only engineer in charge of any steam-boiler or prime mover of more than ten horse-power nominal, shall be entitled to a certificate of competency.*

Withdrawal or suspension of certificate.

18. If by means of any inquiry conducted under the provisions of this Act the misconduct, negligence or incompetency of any engineer possessing a certificate of competency is established to the satisfaction of the Governor in Council, it shall be lawful for the said Governor in Council to cancel such certificate, or to suspend the same for such time as to him shall seem fit.

English certificates to be available.

19. A certificate of competency shall be granted by the examiners to any engineer in possession of a certificate of competency granted by any competent authority in the United Kingdom or in British India, or in any British Colonial possession, and the certificate so granted by the examiners shall be liable to be cancelled or suspended as provided in the preceding section.

Certificates to be made in duplicate.

20. All certificates of competency which may be granted under this Act shall be made in duplicate, and one part shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded as the Governor in Council shall direct.

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* See *Bombay Government Gazette*, 29th October, 1874, p. 884 24th June, 1875, p. 649.

Record of orders affecting certificates.

All orders made for cancelling, suspending, altering or otherwise affecting any certificate in pursuance of the powers herein contained, shall be entered on the record of certificates.

Copy to be given when certificate is lost.

21. Whenever any engineer proves to the satisfaction of the Governor in Council, that he has, without fault on his part, lost or been deprived of any certificate already granted to him, a copy of the certificate to which by the record so kept as aforesaid he appears to be entitled, shall be delivered to him, and shall have all the effect of the original certificate.

Engineers to possess certificate of competency.

22. No person who does not possess a certificate of competency granted under section 17, section 19 or section 21 of this Act shall be deemed a fit and proper person to manage or be in charge of a steam-boiler or prime mover situate in the city of Bombay or in a district or place to which the provisions of this Act are made applicable;

Penalty for employing unqualified engineers.

and if any owner of any steam-boiler or prime mover as aforesaid knowingly places or permits to be placed in management or charge of such steam-boiler or prime mover any person who does not possess a certificate of competency as aforesaid, such owner shall be liable to a fine not exceeding five hundred rupees, and, in default of payment of fine, to imprisonment of either description for a term not exceeding three months.

Certificate not to be granted for boiler if it has not certificated engineer.

23. No certificate under section 8 or section 10 of this Act shall be granted for any steam-boiler or prime mover, unless the owner thereof shall have in his employ as engineer thereof a person possessing a certificate of competency under section 17 or section 19 or section 21 of this Act.

Part IV.—Recovery of Penalties.

When penalties under sections 14 and 22 are to be enforced.

24. No proceeding shall be taken to enforce the penalties mentioned in sections 14 and 22 of this Act, nor shall section 23 of this Act take effect before such day after this Act shall have come into operation, or shall have been declared applicable to any district or place, as Government shall fix by notification in the *Bombay Government Gazette*.

Recovery of fines and disposal of fines and costs.

25. All costs and penalties imposed under the provisions of this Act within the city of Bombay may be recovered in the manner prescribed by Act XIII of 1856 [a] (*for regulating the Police of the towns of Calcutta, Madras and Bombay*) and Act XLVIII of 1860 [b] (*to amend Act XIII of 1856*) or any other Act for regulating the Police of the city of Bombay for the time being in force,

and all offences against this Act committed in any district or place to

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[a] See *supra*, p. 73. [b] See *supra*, p 96.

which this Act shall have been declared applicable may be tried by any Magistrate with powers not inferior to those of a Magistrate of the first class, and the provisions of sections 64 to 70, both inclusive, of the Indian Penal Code,[a] and of section 307 of the Code of Criminal Procedure,[b] shall apply to all cost and fines imposed under the authority of this Act in any district to which this Act shall have been declared applicable.

All fees payable and all fines and costs to be levied under this Act shall be disposed of in such manner as Government from time to time shall direct.

Charges within what period to be brought.

26. No charge shall be brought against any person for the recovery of any fine under this Act, except within six months after the commission of the offence, nor shall such charge be brought except with the sanction or under the direction of the Collector of Bombay or of the Collector of the district in which the offence is laid.

SCHEDULE A.

Maximum Rate of Fees leviable under section 8.

(1).	For inspecting every steam-boiler attached to a prime mover exceeding ten but not exceeding 15 horse-power nominal	Rs. 10
(2).	For inspecting every steam-boiler attached to a prime mover exceeding fifteen but not exceeding 20 horse-power nominal	„ 15
(3).	For inspecting every steam-boiler attached to a prime mover exceeding twenty but not exceeding 30 horse-power nominal	„ 20
(4).	For inspecting every steam-boiler attached to a prime mover exceeding thirty but not exceeding 50 horse-power nominal	„ 25
(5).	For inspecting every steam-boiler attached to a prime mover exceeding fifty horse-power nominal	„ 30

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[a] See General Acts, vol. I, p. 394.

[b] See General Acts, vol III, p. 1600.

SCHEDULE B.

Form of Inspector's Certificate.

Name of Owner	Description of Boiler, and age.	Description of Prime Mover, and age.	Power.	When and where made.	When and where last repaired.	Time for which Boiler or Prime Mover is to be used and Certificate to be in force, and maximum pressure at which the boiler may be worked.	Remarks.

I, the undersigned, certify that I have examined the abovenamed boiler (*or* prime mover), and to the best of my judgment the boiler (*or* prime mover), as shown in the above statement, is in good condition.

A. B., Inspector.

THE BOMBAY DISTRICT MUNICIPAL ACT OF 1873.

CONTENTS.

I.—Preliminary.

Section.

1. [*Repealed.*]
2. Short title.
3. Interpretation-clause.

II.—Constitution of Municipalities.

4. Municipal Districts.
5. Municipal Commissioners.
6. Municipalities of two kinds.
7. City Municipalities.
8. In city municipalities Commissioners to carry out purposes of Act.
9. Town-municipalities.
10. Purposes of Act by whom to be carried out in town-municipality.
11. General Meetings.

SECTION.

12. President or Vice-President may circulate written propositions.
13. Contracts.
14. Preparation of rules.
15. Commissioners, &c., to be public servants.
16. Municipalities may be altered or abrogated.

III.—MUNICIPAL PROPERTY AND FUND.

17. Property vested in municipality.
18. Municipal fund.
19. Existing municipalities made municipal districts.
20. Existing municipalities not made into municipal districts.
21. Imposition of taxes.
22. Municipality may charge fees for licenses.

IV.—APPLICATION OF MUNICIPAL PROPERTY AND FUNDS.

23. Municipal property and funds when applicable.
24. Municipal property and funds how applicable.
Power to purchase, sell or lease land.
25. Acquisition of land.
26. Surplus funds how dealt with.

V.—GENERAL CONSERVANCY.

27. Municipalities to which provisions of chapter V may be rendered applicable.
28. Power regarding streets, &c.
29. New streets.
30. Projecting or receding houses.
31. Combustible materials not to be used.
32. Level of houses.
33. Notice of new buildings.
34. Regulation of huts.
35. Improvement of huts.
36. Provision of privies, &c.
37. Sufficient drainage of houses.
38. Unauthorized drains, &c.
39. Municipal control over drains, &c.
40. Inspection of drains, &c.
41. Troughs and pipes for rain-water.
42. Removal of projections.
43. Regulation of hedges, trees, &c.
44. Fixing of brackets, &c., to houses.
45. Naming streets and numbering houses.
46. Ruinous or dangerous buildings.
47. Displacing pavements, &c.
48. Obstructions.
49. Hoards to be set up during repairs, &c.
50. Fencing and lighting during repairs, &c.
51. Timber not to be deposited or hole made in street without permission.

SECTION.

52. Dangerous places.
53. Depositing dust, &c.
54. Discharging sewage, &c.
55. Non-removal of filth.
56. Removal of night-soil.
57. Halálkhor-service.
58. Filthy buildings, &c.
59. Power to enter and inspect, &c., buildings.
60. Bathing-places.
61. Fouling water.
62. Abatement of nuisances.
63. Using offensive manure, &c.
64. Tethering cattle, &c.
65. Consumption of smoke.
66. Licensing markets and slaughter-houses.
67. Opening, closing and letting of markets and slaughter-houses.
68. Search for unwholesome articles.
69. Regulation of certain trades.
70. Bye-laws for markets, slaughter-houses and certain trades.
71. Slaughter-houses, &c., beyond municipal limits.
72. Bye-laws for registration and census.
73. Special sanitary exigencies.
74. Penalties.
75. Execution of notices.

VI.—PROCEDURE, PROSECUTIONS, SUITS, &c.

76. Service of notices.
77. Municipality, in default of owner or occupier, may execute works and recover expenses.
Power to levy charges on occupier, who may deduct same from rent.
Occupiers not to be liable for more than amount of rent due.
Proviso.
78. Occupier in default of owner may execute works and deduct expenses from rent.
79. Proceedings if any occupier opposes execution of Act.
80. Entry for purposes of Act.
81. Arbitration in cases of compensation, &c.
82. Municipality may prosecute.
83. Damage to municipal property how made good.
84. Jurisdiction of Magistrate.
85. Distress lawful though defective in form.
86. Actions against municipality.
87. Powers of Police-officers.

VII.—MUNICIPAL ACCOUNTS AND GOVERNMENT CONTROL.

88. Quarterly and annual accounts.
89. Audit of accounts.
90. Transmission of accounts to Government.
91. Powers of Government in cases of municipal default.

VIII.—Publicity of Municipal Proceedings: Appeals.

Section.

92. Meetings to be public.
93. Minutes of proceedings.
94. Publication of accounts.
95. Rules to be printed and sold.
96. Complaints, and appeals where to be laid.
97. Right to sue municipality.
98. Inspection by Police Commissioners.
99. Delegation of powers by Government to Police Commissioners.

ACT No. VI of 1873.

Received the Governor's assent on the 27th of November, 1873, and the Governor General's assent on the 29th of April, 1874, and published by the Governor on the 14th of May, 1874.

For the better management of Municipal affairs in Mufassal Towns and Cities.[a]

Whereas it is expedient to consolidate and amend the law relating to the management of municipal affairs in cities and towns in the Bombay Presidency other than the city of Bombay: It is enacted as follows:—

I.—Preliminary.

1.—[*Repealed by Act No. XII of 1876.*]

2. This Act shall be cited as the "Bombay District Municipal Act." Short title.

3. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction:— Interpretation-clause.

the word "Collector" shall mean the chief revenue officer of a district constituted by Regulation XVI of 1827, or by any law in force for the time being, and shall include any other officer exercising under the authority of Government the powers of a Collector under this Act:

the words "Magistrate of the District," and "Magistrate," shall bear the meanings attached to them in the Code of Criminal Procedure:

the word "Commissioner" shall mean any person legally a member of a municipality constituted under this Act:

the word "place" shall mean any city, town, suburb, station, bázár or (with the previous consent of the Governor General in Council) any canton-

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[a] Extended to Sindh by Bombay Act No. I of 1879.

ment, with any village or lands immediately adjacent thereto, which shall be constituted a municipal district as in this Act provided, and also any number of such places when declared to be united as in this Act provided

the word "land" shall include buildings, trees and appurtenances thereupon

the word "bázár" shall include any place of trade where there is a collection of shops or warehouses, and any locality where a market, fair or pilgrimage takes place

the word "street" shall include any way, road, street, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have a right of passage or access, or shall have, during a period of twenty years, passed or had access without interruption, and also the roadway and footway over any public bridge or causeway

the word "building" shall mean any house, hut, shed or enclosure, whether used as a human dwelling or otherwise, and shall include compound-walls, door-steps, verandahs and the like

the word "owner" shall mean the person for the time being receiving the rent of lands and buildings, or either of them, whether on his own account, or as agent or trustee for any other person or Society, or for any religious or charitable purposes, or who would so receive the same if such land or building were let to a tenant Provided that no person receiving the rent of land or premises as agent or trustee for another person shall be liable to do anything by this Act required to be done by the owner of such land or premises unless he have sufficient funds of or due to the owner to pay for the same, nor shall he be subject to any penalty for omitting to do such act if he can prove that the default was occasioned by reason of his not having funds of or due to the owner sufficient to defray the expense of doing the act required

II —Constitution of Municipalities

Municipal districts.

4. *Clause 1.*—For the purposes of this Act, the Governor of Bombay in Council may, from time to time, by notification in English and in the language of the district in the *Bombay Government Gazette* and in the local newspapers, if any, as also by notification in the language of the district, to be posted up in conspicuous parts of the place or places affected thereby, notify that he believes it to be expedient to constitute as a municipal district any place not being within the limits of the island of Bombay, or to constitute as a municipal district and declare to be united for the purposes of this Act, any number of such places or any parts thereof, and shall define in the said notification the proposed limits of such municipal district Provided that no

cities, towns or villages shall be united for the purposes of this Act which are separated from one another by a distance of more than one mile of ground unoccupied by houses.[a]

Clause 2.—Any inhabitant of such place or places objecting to such formation of a municipal district, may, within two months from the date of the publication of the said notification, send in his objection in writing to a Secretary to Government, and the Governor in Council shall take such objection into consideration.

Clause 3.—When two months from the date of the publication of the said notification have expired the Governor in Council, if no objections have been sent as aforesaid, or (where such objections have been so sent in) if in his opinion they are insufficient, may by like notification constitute the said municipal district, and may declare from time to time who shall be deemed inhabitants thereof within the meaning of this Act, and by what name such district shall be designated.

Clause 4.—[*Repealed by Act No. XII of 1876*].

Clause 5.—It shall be competent to the Governor in Council to constitute temporarily as a municipal district the site of a fair or jattrá held for religious or trading purposes, together with the village or villages to which the people frequenting such fair or jattrá resort for the purpose of such fair or jattrá, and to vest the power and responsibility for carrying out the purposes of this Act in such a municipal district in the Municipal Commissioners of an adjacent city or town-municipality or of a town-municipality specially constituted for the time being. No notification of the nature prescribed in this section shall be necessary in the case of temporary municipalities as aforesaid, but the remaining provisions of this Act relating to town-municipalities shall be applicable to such temporary municipalities.

Municipal Commissioners.

5. In every place which shall have been constituted a municipal district the Governor of Bombay in Council, or any officer duly authorized by him, shall in like manner notify who, under section 7 or section 9 of this Act, are to be the Municipal Commissioners for carrying out in such place the purposes of this Act. The Municipal Commissioners of such place shall, by the name of "The Municipality of——," be a body corporate, and shall have perpetual succession and a common seal, and be competent to hold property, moveable and immoveable, to them and their successors, and to convey the same with the sanction of the Governor in Council or any officer duly authorized by him, and to enter into all necessary contracts for the purposes of this Act, and by such name shall sue and be sued.

[a] As to clauses 1 to 3 of section 4, see Bombay Act No. 1 of 1879, section 5.

Municipalities of two kinds.

6. Municipalities shall be of two kinds, corresponding with the nature and powers of the Commissioners, and termed "City Municipalities" and "Town Municipalities" respectively: Provided that no 'City Municipality' shall be constituted in any municipal district containing less than 10,000 inhabitants, and that no 'Town Municipality' shall be constituted in any municipal district containing less than 2,000 inhabitants.

City Municipalities.

7. *Clause 1.*—City municipalities shall consist of the undermentioned Commissioners:—

The Collector of the district, who shall be President.	*Ex officio.*
The Assistant or Deputy Collector in charge of the taluqa in which the city municipality is situated.	*Ex officio.*
The mámlatdár of the said taluqa.	*Ex officio.*
The City Inspector or Chief Constable of the said taluqa.	*Ex officio.*
The Huzúr Deputy Collector and Magistrate.	*Ex officio.* When resident in or near the place, and not otherwise.
The Executive Engineer.	*Ex officio.* When resident in or near the place, and not otherwise.
The Civil Surgeon.	*Ex officio.* When resident in or near the place, and not otherwise.
The Superintendent of Police.	*Ex officio.* When resident in or near the place, and not otherwise.
The Assistant Superintendent of Police.	*Ex officio.* When resident in or near the place, and not otherwise.
The Deputy Educational Inspector.	*Ex officio.* When resident in or near the place, and not otherwise.
Such persons, resident in or near the place as the Governor in Council, or any officer duly authorized by him, may appoint to be Commissioners:	Non-official.

Provided that the number of such non-official Commissioners shall always be not less than double that of the *ex officio* Commissioners.

Provided also that such non-official Commissioners shall be appointed only for a term not exceeding three years, or until their successors shall have been appointed, but shall on the expiration of that period be eligible to be again appointed for a further term or terms.

Clause 2.—The Governor in Council may, if he think fit, direct the whole or any portion of the non-official Commissioners to be appointed by election, and in that case may fix the time and manner of the election and the qualification of the electors, and generally may make such rules as he shall think fit for regulating the election.

Clause 3.—The Governor in Council may, from time to time, remove any of the Commissioners so appointed who shall desire to be discharged, or refuse or become incapable to act, or be sentenced to rigorous imprisonment for a period of six months or more, or who shall without sufficient excuse neglect to be present at two-thirds of the meetings during any twelve months at which it was his duty to attend.

8. *Clause 1.*—In city municipalities, the entire power and responsibility for carrying out the purposes of this Act shall be vested in the Commissioners collectively, except in so far as such power may be limited by this Act, or such power and responsibility may be delegated by the rules hereinafter required. In city municipalities Commissioners to carry out purposes of Act.

Clause 2.—It shall be the duty of the President to preside at meetings of the Commissioners, to watch over the financial and executive administration, to submit questions of importance for the decision of the Commissioners, and to perform such executive functions as may be assigned to him in the rules hereinafter required.

Clause 3.—In the decision of all questions submitted to the Commissioners, the President shall have a casting vote, and the power of suspending the operation of any resolution which may be carried against a minority of the Commissioners, being not less than two-fifths of those who may have voted on the motion, and of referring the matter forthwith for the orders of the Governor in Council, whose decision shall be final.

Clause 4.—In the event of his absence from any general meeting the President may appoint one of the Commissioners to preside on the occasion, and in default of his doing so the Commissioners present shall elect one of their number for that purpose.

9. *Clause 1.*—Town-municipalities shall consist of the under-mentioned Commissioners :— Town-municipalities.

The Collector of the district, who shall be President.	*Ex officio.*
The Assistant or Deputy Collector in charge of the taluqa, who shall be Vice-President.	
The mámlatdár or mahálkarí of the taluqa, or mahál in which the town-municipality is situated.	
The Chief Constable of the taluqa or mahál in which the town-municipality is situated.	
Such persons, resident in or near the place, as the Governor in Council, or any officer duly authorized by him, may appoint to be Commissioners :	Non-official.

Provided that the number of such persons shall in no case exceed twelve, and that not more than one-half of the whole number of Commissioners shall be persons holding salaried offices in the service of Government.

Provided also that such non-official Commissioners shall be appointed for a term not exceeding three years or until their successors shall have been appointed, but shall on the expiration of that period be eligible to be again appointed for a further term or terms.

Clause 2.—The Commissioners shall at the first general meeting after the 31st day of March in each year elect one of their number to be Chairman for the ensuing twelve months or until a new Chairman be elected.

Clause 3.—The Governor in Council, or other officer aforesaid, may, from time to time, accept the resignation of, or remove, any of the non-official Commissioners, and may fill up vacancies, or complete the legal number, as may seem to him fit.

Purposes of Act by whom to be carried out in town-municipality.

10. *Clause 1.*—In town-municipalities the power and responsibility for carrying out the purposes of this Act shall be vested in the President finally, and in the Vice-President subject to appeal to the President either by the other Commissioners, or by the public or any individual considering himself aggrieved: provided that, in the event of the President or Vice-President differing on any matter from a majority of the Commissioners, he shall record in writing his reasons for over-ruling their opinion.

Clause 2.—The local executive authority shall be vested in the Chairman and other local Commissioners, and exercised in such manner as may be provided in the rules hereinafter required, but the detailed executive management, or any portion of it, may under their control, and as laid down in such rules, be entrusted, with or without remuneration, to either the Chairman or one or more of the Commissioners, or to a separate stipendiary officer.

Clause 3.—The duties of the President, Vice-President and Chairman shall correspond with those of the President of the city-municipality as laid down in section 8, clause 2 of the Act. The senior of them present shall preside at all municipal meetings, and in the event of all three being absent, the Commissioners present shall elect a Chairman for the occasion.

General meetings

11. *Clause 1.*—Every municipality shall hold four quarterly general meetings in every year, on or about January 1st, April 10th, July 1st and October 1st, at which the Commissioners shall meet for the transaction of general business. The President, and in town-municipalities the Vice-President also, may, whenever he thinks fit, and shall, upon a written requisition signed by not less than one-fourth of the whole body of Commissioners, call a special general meeting.

Seven clear days' notice of quarterly general meeting, and three days' clear notice of a special general meeting, specifying the time and place of such intended meeting and the business to be transacted thereat, shall be circulated to the Commissioners, and posted up at the municipal office, or local kachahrí or other public place.

Clause 2.—No business shall be transacted at any general meeting unless at least one-half of the Commissioners be present. If a quorum of Commissioners be not present at any general meeting, the presiding authority shall

adjourn the meeting till such convenient time as he may think fit, and the business which would have been brought before the original meeting had there been a quorum present shall be brought before and disposed of by the adjourned meeting, whether there be a quorum present or not.

Clause 3.—All questions which may come before the municipality at any general meeting shall, saving the powers reserved to the President, and in town-municipalities to the Vice-President, be decided according to a majority of votes, the President, Vice-President or Chairman for the time being having a casting vote.

Clause 4.—The business transacted at a general meeting shall be such as may have been brought forward by the municipal executive or by the President, and in town-municipalities by the Vice-President also, or by any Commissioner who may have given notice of the same to the President ten days before a quarterly general meeting, or in the requisition for a special general meeting, and as shall have been duly specified in the notices.

Clause 5.—Any general meeting may, with the consent of a majority of members present, be adjourned from time to time; but no business shall be transacted at any adjourned meeting other than that left unfinished at the meeting from which such adjournment took place.

President or Vice-President may circulate written propositions.

12. In cases in which it may appear to the President or Vice-President or Chairman unnecessary to convene a special general meeting, he may circulate written propositions of his own, or of other Commissioners, or of the municipal executive, for the observations and votes of the Commissioners.

In such cases the decision shall, saving the powers reserved to the President and Vice-President respectively, be according to a majority of votes of the Commissioners voting, unless the prescribed proportion of such Commissioners should require a special general meeting to be convened.

Contracts.

13. *Clause 1.*—All necessary contracts for the purposes of this Act shall be entered into by or on behalf of the municipality in the manner prescribed in the rules hereinafter required to be made.

Clause 2.—No Commissioner shall be personally liable for any contract made or expense incurred by or on behalf of the municipality, but the funds from time to time in the hands of the municipality shall be liable for and charged with all contracts made and expenses duly incurred as aforesaid.

Every Commissioner shall be liable for any misapplication of money entrusted to the municipality, to which he shall have been a party, or which shall have happened through or been facilitated by his gross neglect of duty, and he shall be liable to be sued for the same as for money due to the Government.

Clause 3.—No Commissioner, except with the written consent of the President, and no officer or servant of the municipality, shall be in anywise concerned

or interested in any contract made with the municipality, and if any person be so concerned or interested he shall thereby become incapable of continuing in office or in employment, and shall be liable to a fine not exceeding five hundred rupees, which shall be leviable as hereinafter provided :

Provided always that no person by being a shareholder in or a member of any registered or incorporated Company, shall be disqualified from acting as a Commissioner by reason of any contract entered into between such Company and the municipality.

Nevertheless it shall not be lawful for a shareholder or member to act as a Commissioner in any matter relating to any contract between the municipality and such Company.

Preparation of rules.

14. *Clause 1.*—It shall be the duty of every municipality, as soon after their constitution as conveniently may be, to prepare rules, and afterwards from time to time to repeal, alter or amend the same as occasion may require, regulating the nature and action of the municipal executive administration :

Provided that no rule shall have effect until the same shall have been approved by the Governor in Council.

All rules when so approved shall, until altered or rescinded under the same authorities, have the same force as if they had been inserted in this Act.

Clause 2.—The rules prepared as above shall provide for the following matters :—

(*a.*) The person or persons to be primarily responsible for the current executive administration, that is to say :—

(1) in city-municipalities : whether such administration shall be vested in a single officer, paid or unpaid, and whether such officer shall be a member of the municipality or not ; or in two or more such officers ; or in a Managing Committee assisted by a Secretary, or otherwise ;

(2) in town-municipalities : what portion of the local executive authority shall be exercised by the Chairman and Commissioners, or one or more of them, and what by the Chairman or other executive officer alone.

(*b.*) The extent to which the general powers of the municipality, and the executive functions of the President and Vice-President other than those prescribed in this Act, shall be delegated to the executive authorities constituted as above, or to their subordinates.

(*c.*) The times and places of meeting of such executive authorities, the mode of their transacting business, the custody of moneys, the keeping and submission of accounts, the execution of contracts, and the like.

(*d.*) The mode of appointment, granting leave, punishment and dismissal of all officers and servants of the municipality, their duties, the securities to be furnished by any of them, and the salaries they shall receive.

(*e*.) The taxes, tolls or other imposts to be levied in the place under this Act, together with the times and mode of collection of the same.

(*f*.) The mode in which, and the authority by whom, any bye-laws not repugnant to existing law or this Act, on the subject of markets, slaughter-houses, water-supply, conservancy, places for the disposal of the carcases of animals, and all other matters connected with the purposes of this Act shall be made, altered, amended or repealed; the fines or penalties leviable for the infringement of such bye-laws.

(*g*.) Any other executive matters not inconsistent with the spirit and purposes of this Act.

Commissioners, &c, to be public servants.

15. Every Municipal Commissioner, executive officer (whether paid or not) and servant, as also every contractor or agent for the recovery of the rents and profits of municipal properties, of the levy of any tax, toll, or other impost on behalf of the municipality, and his agents, shall be held to be a public servant within the meaning of section 21 of the Indian Penal Code.

Municipalities may be altered or abrogated.

16. *Clause 1.*—It shall rest with the Governor in Council or any other officer duly authorized by him to decide, subject to the provisions contained in section 6 of this Act, whether any municipal district constituted under this Act shall be administered by a city-municipality or a town-municipality, as also at any time subsequently to substitute in any such place a city-municipality for a town-municipality, or *vice versâ*; and to abolish any municipal district and municipality, should he deem it advisable to do so.

Clause 2.—The Governor in Council may from time to time, on the representation of the municipality concerned, alter the limits of any municipal district constituted under this Act:

Provided that such alteration shall not be effected until after notification of intention and hearing of objections in the manner provided in clauses 1, 2 and 3 of section 4 of this Act.

III.—Municipal Property and Fund.

Property vested in municipality.

17. All property of the nature hereinafter specified shall be vested in and belong to the municipality, and shall, together with all other property, of what nature or kind soever, which may become vested in the municipality, be under their direction, management and control, and shall be held and applied by them as trustees for the purposes of this Act; that is to say:—

(*a*) All public town-walls, gates, markets, slaughter-houses, manure and nightsoil-depôts and public buildings of every description not specially reserved by Government.

(*b*) All public streams, tanks, reservoirs, cisterns, wells, springs, aqueducts, conduits, tunnels, pipes, pumps and other waterworks, and all bridges,

buildings, engines, works, materials and things connected therewith or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank or well.

(*c*) All public sewers and drains, and all sewers, drains, tunnels, culverts, gutters and watercourses in, alongside or under, any street, and all works materials and things appertaining thereto, as also all dust, dirt, dung, ashes refuse, animal-matter or filth, or rubbish of any kind collected by the municipality from the streets, houses, privies, sewers, cesspools or elsewhere.

(*d*) All public lamps, lamp-posts and apparatus connected therewith, or appertaining thereto.

(*e*) All land transferred to them by Government, or by gift or otherwise for local public purposes.

(*f*) All public streets and spaces, and the pavements, stones and other materials thereof, and also all trees, erections, materials, implements and things provided for such streets and spaces.

Municipal fund.

18. All moneys received by or on behalf of the municipality by virtue of this or any other Act; all taxes, tolls and other imposts, fines, fees, penalties paid to or levied by them under this Act; all proceeds of land or other property sold by the municipality, and all rents accruing from their land or property; as also all interest, profits and other moneys accruing by gifts or transfers from Government or private individuals or otherwise, shall constitute the municipal fund, and shall be held and dealt with in a similar manner to the property mentioned in the last preceding section.

Existing municipalities made municipal districts.

19. *Clause 1.*—In the event of any place to which the operation of Act XXVI of 1850 [a] has been extended being, within six months from the date of the passing of this Act, included within the limits of a municipal district constituted as herein provided, all property moveable and immoveable which shall, on the date on which such place shall be included within such municipal district aforesaid, be vested in or held in trust for the Municipal Commissioners appointed under the said Act XXVI of 1850, with all rights of way and easements, and all other rights of whatsoever description now used, enjoyed or possessed by the said Commissioners shall, on and from the date on which such place shall be included within such municipal district aforesaid, be vested in the municipality constituted under this Act.

Clause 2.—[*Repealed by Act No. XII of 1876.*]

Existing municipalities not made into municipal districts.

20. In the event of any place to which the operation of Act XXVI of 1850 has been extended not being, within six months from the date of the passing of this Act, included within the limits of a municipal district constituted as

[a] Repealed by this Act, sec 1

herein provided, such municipality shall cease to exist, and all property and rights of what nature or kind soever which may, on the date of the expiration of the said period of six months, be vested in the Municipal Commissioners appointed under the said Act XXVI of 1850, shall become vested in the Governor in Council, and the proceeds shall be expended for the benefit of the said place.

Imposition of taxes.

21. *Clause 1.*—Every municipality desiring from time to time to impose any tax, toll or other impost for the purposes of this Act, shall give notice of such intention, and shall in such notice define the nature of the tax, toll or other impost, the class of persons or property to be made liable thereto, and the amount to be imposed.

Clause 2.—Any inhabitant of the municipal district objecting to such tax, toll or impost may, within a fortnight from the date of the said notice, send his objection in writing to the municipality, and the municipality shall take such objection into consideration, and report their opinion thereon to the Governor in Council.

Clause 3.—When a fortnight from the date of the said notice has expired, if no such objections have been sent as aforesaid, or (where such objections have been sent in) if in the opinion of the Governor in Council they are insufficient, the Governor in Council may approve of the provision for the said tax, toll or impost in the rules, and such tax, toll or impost shall be imposed accordingly.

Clause 4.—The above provisions of this section shall not be applicable in the first instance to municipalities formed under Act XXVI of 1850,[a] which the Governor in Council may have constituted as municipal districts under this Act.

In all such cases the taxes, tolls or other imposts which may have been in force under Act XXVI of 1850 shall continue in force until altered or abolished.

Municipality may charge fees for licenses.

22. When any license is granted by the municipality under this Act, or when permission is given by them for making any temporary erection or for putting up any projection, or for the temporary occupation of any street or other land vested in the municipality, the municipality may charge a fee for such license or permission.

The rates of such fees shall be specified in the rules contemplated in section 14 of this Act.

IV.—Application of Municipal Property and Funds.

Municipal

23. All property vested in the municipality, and all funds received or

[a] Repealed by this Act, sec 1.

property and funds, where applicable.

raised by them in accordance with the provisions of this Act, shall be applied for the purposes of this Act within the limits of the municipality:

Provided always that it shall be lawful for the municipality, with the sanction of the Governor in Council or any officer duly authorized by him, to make a contribution towards expenditure incurred in any other municipality, or in any local funds district constituted under (Bombay) Act III of 1869, for measures affecting the public health, instruction or convenience, which are calculated to benefit the residents within the limits of the contributing municipality.

Municipal property and funds, how applicable.

24. *Clause 1.*—All municipal property and funds shall be applicable to the objects connected with the public safety, health, instruction and convenience, and as regards the Police to the extent hereinafter specified, and not otherwise; that is to say:—

Public Safety.

(1) Defraying such proportion, not exceeding one-half, of the charges of every description of the Police who may be *bonâ fide* employed for the security of life and property within the municipal limits, as the Governor in Council may direct after consideration of the representations of the Police Commissioner and the municipality, to whom the estimate of the Police Commissioner shall be submitted annually for their opinion:

Provided that such proportion of charges shall not exceed one-fifth of the total annual income of the municipality.

(2) Provision for lighting the public streets, places and buildings, for the extinction of fires, and for the securing or removal of dangerous places, buildings, trades and practice.

Public Health.

(1) Defraying such proportion of the total cost of the construction and maintenance of hospitals, dispensaries and lunatic asylums; and of the charges of vaccination, registration of births, deaths and marriages, and taking a census, and such other lawful sanitary measures as the municipality may think fit.

(2) Construction and maintenance of public markets and slaughter-houses, latrines, privies, urinals, drains, sewers, drainage-works, water-works, baths, wash-houses, drinking-fountains, tanks, wells, dams, parks and gardens, reclamation of unhealthy localities, and the like.

(3) Watering of streets, cleansing of streets and sewers, scavenging, removal of noxious vegetation, and generally the abatement of all nuisances.

(4) Regulation and abatement of offensive trades and places for disposal of the dead and the removal of and providing sites for the same.

Public Instruction.

(1) Defraying such proportion of the cost of the construction, support and maintenance of any schools or colleges within the municipal limits as the municipality may think fit.

(2) Erection and maintenance of such public libraries and museums as the municipality may think fit.

Public Convenience.

(1) Construction, maintenance and alteration of streets, bridges, causeways, culverts and the like; regulation of buildings, naming streets, and numbering houses; planting trees and removal of obstructions and projections.

(2) Erection and maintenance of public halls, offices, chaukís, dharmsálas, rest-houses and other needful buildings.

(3) Survey of houses and lands, and generally to all objects connected with the public safety, health and convenience not repugnant to the above or the spirit of this Act.

Power to purchase, sell or lease land.

Clause 2.—It shall be lawful for the municipality to purchase or rent land, or buildings or other property for any of the objects abovenamed; or to lease or sell, if not required for such purposes, any land, buildings or other property vested in them by this Act, or acquired by them for the purposes thereof, in such manner as they may find most convenient and advantageous, provided that the proceeds of such transactions shall be credited to the municipal fund:

Provided also that all sales of lands or buildings shall be subject to the previous sanction of the Governor in Council or of any officer duly authorized by him.

Acquisition of land.

25. When there is any hindrance to the permanent or temporary acquisition, upon payment, of any land or building required for the purposes of this Act, the Governor in Council may, after obtaining possession of the same for Government under Act X of 1870 or other existing law, vest such land or building in the municipality on their paying the compensation awarded.

Surplus-funds how dealt with.

26. *Clause 1.*—It shall be lawful for the municipality to deposit at interest with the Bank of Bombay or such other Bank as may hereafter be appointed to conduct the business of Her Majesty's Treasury at Bombay, any surplus-funds in their hands which may not be required for current charges, and to invest such funds in Government-securities in the name of the municipality, and from time to time to dispose of such securities as may be necessary.

Clause 2.—All surplus-funds over and above what may be required for

current expenses shall, unless placed at interest as above, be deposited in the local Government-treasury or such other place of security as may be sanctioned in the rules contemplated in section 14 of this Act.

V.—General Conservancy.

Municipalities to which provisions of chapter V may be rendered applicable

27. The provisions of this chapter shall apply to all city-municipalities constituted under this Act, but as regards all town-municipalities so constituted, only such provisions of this chapter shall be rendered applicable to such town-municipalities as the Governor in Council may direct:

Provided that one month before any of the provisions of this chapter shall be put in force and acted upon in any town-municipality, a notification in the language of the district shall be posted up in conspicuous places of the town-municipality affected thereby, specifying the provisions of this chapter which it is intended to put in force, and proclamation to a like effect shall be made by beat of batáki at least four times.

Power regarding streets, &c.

28. *Clause 1.*—It shall be lawful for the municipality to lay out and make new public streets or roads, and to build bridges, tunnels and other works appertaining to the same, and to widen, open, enlarge or otherwise improve any such streets or roads, and to turn, divert, discontinue or stop-up any such streets or roads, and to sell the land, or such part thereof as may not be required for the purposes of this Act.

Clause 2.—In laying out or making any new streets, or in turning, diverting, widening, opening, enlarging or otherwise improving any public street, in addition to the land required for the carriage-way and foot-ways and drains thereof, the municipality may purchase the land necessary for the houses and buildings to form the said street, and may sell and dispose of the same, in perpetuity or on lease for a term of years, with such stipulations as to the class and description of houses or buildings to be erected thereon as they may think fit.

New streets.

29. Every person intending to lay out or make any new street shall give notice in writing thereof to the municipality, and shall furnish plans and sections showing the intended level, means of drainage, direction and width of such street, if required by the municipality to do so, and the level, means of drainage, direction and width of every such street shall be fixed or approved by the municipality.

Whoever lays out, makes or builds upon any such street otherwise than in accordance with the instructions so received shall be liable to the penalty hereinafter provided, and the municipality may cause any street so laid out or made to be altered, and any building erected in such street contrary to their directions to be altered or removed, and the expense thereby

incurred shall be paid to them by the offender and recoverable as hereinafter provided.

If no such level, means of drainage, direction or width be fixed, and no disapproval of the level, means of drainage, direction or width proposed be signified, or *ad interim* order for a specified period not longer than one month be issued by the municipality within one month, the street may be laid out and made in the manner specified in the notice.

Projecting or receding houses.

30. *Clause 1.*—When any house or building, any part of which projects beyond the regular line of a public street either as existing or determined upon for the future, or beyond the front of the house or building on either side thereof, has been either entirely or in greater part taken down, or burned down, or has fallen down, the municipality may, by written notice, require the same when being rebuilt to be set back to or towards the said regular line, or the front of the adjoining houses or buildings, and the portion of land added to the street by such setting back shall thenceforth be deemed part of the public street and be vested in the municipality:

Provided always, that the municipality shall make full compensation to the owner of any such house or building for any damage he may sustain, and if any dispute shall arise touching the amount of such compensation, the same shall be ascertained and determined in the manner hereinafter provided.

Clause 2.—The municipality may, upon such terms as they think fit, allow any house or building to be set forward for improving the line of any public street in which such house or building is situated.

Combustible materials not to be used.

31. The external walls and covering of roofs of huts or other buildings erected or renewed after this Act comes into operation shall not be made of wood, cloth, canvas, grass, leaves, mats or other inflammable matters, unless with the written consent of the municipality, and the municipality may, by written notice, require any person who may have contravened or caused to be contravened the above provision to remove or alter the same as they may think fit.

Any person may give information and institute a prosecution under this section, and all expenses incurred in such prosecutions shall be recoverable from the owner of such hut or building as hereinafter provided.

Level of houses.

32. No house or building shall hereafter be built upon a lower level than will allow of the drainage thereof being led into some public sewer or drain either then existing or projected by the municipality, or into some stream or river, or the sea, or some cesspool, or other suitable place which may be approved of by the municipality.

Notice of new buildings.

33. *Clause 1.*—Before beginning to erect any building, or to alter externally or add to any existing building, the person intending so to build, alter or add

shall give to the municipality notice thereof in writing, and shall furnish to them, if required to do so, a plan showing the levels at which the foundation and lowest floor of such building are proposed to be laid by reference to some level known to the municipality, and all information they may require regarding the limits, design and materials of the proposed building and the intended situation and construction of the drains, sewers, privies and cesspools (if any) to be used in connection therewith.

Clause 2.—Within one month after receiving such notice the municipality may in writing issue such orders not inconsistent with this Act as they think proper with reference to such building.

If the municipality fail to issue written orders, whether of approval or otherwise, with reference to such building within the said period, the person originally giving notice may proceed to erect the building in question in the manner proposed by him to the municipality, provided that such building be in accordance with the provisions of this Act.

Clause 3.—If such building be begun or made without the notice or without affording the information above prescribed, or in any manner contrary to the legal orders of the municipality issued within the period aforesaid, or in any other respect contrary to the provisions of this Act, the person so building shall be liable to the penalty hereinafter provided, and the municipality may, by written notice, require such building to be altered or demolished as they may deem necessary.

Regulation of huts

34. It shall not be lawful for any person to erect any range or block of huts or sheds, or to add any hut or shed to any range or block of huts or sheds already existing when this Act comes into operation without giving previous notice to the municipality; and the municipality may require such huts or sheds to be built so that they may stand in regular lines, with a free passage or way in front of and between every two lines, of such width as the municipality may think proper for ventilation, and to facilitate scavenging, and at such a level as will admit of sufficient drainage, and may require such huts to be provided with such number of privies and such means of drainage as to them may seem necessary.

And if any such huts or sheds be built without giving such notice to the municipality, or otherwise than as required by the municipality, the municipality may give written notice to the owner or builder thereof, or the owner or occupier of the land on which the same are erected or are being erected, to take down and remove the same within one month or to alter them as they may think fit.

Improvement of huts

35. Whenever the municipality are of opinion that any huts or sheds, whether used as dwellings or stables or for any other purposes, and whether

existing at the time when this Act comes into operation or subsequently erected, are, by reason of the manner in which such huts or sheds are crowded together, or of the want of drainage and the impracticability of scavenging, attended with risk of disease to the inhabitants or the neighbourhood, they shall cause a notice to be affixed to some conspicuous part of each such hut or shed requiring the owner or occupier thereof, or the owner of the land on which such hut or shed is built, within such reasonable time as may be fixed by the municipality for that purpose, to execute such operations as the municipality may deem necessary for the avoidance of such risk.

And in case such owners or occupiers shall refuse or neglect to execute such operations within the time appointed, the municipality may cause the said huts or sheds to be taken down, or such operations to be performed in respect of such huts or sheds as they may deem necessary to prevent such risk.

If such huts or sheds be pulled down the municipality shall cause the materials of each hut or shed to be sold separately, if such sale can be effected, and the proceeds after deducting all expenses shall be paid to the owner of the hut or shed, or, if the owner be unknown or the title disputed, shall be held in deposit by the municipality until the person interested therein shall obtain the order of a competent Court for the payment of the same:

Provided always, that in case any huts or sheds existing at the time when this Act comes into operation should be pulled down under this section by order of the municipality, or in pursuance of their notice, compensation shall further be made to the owner or owners thereof, and the amount thereof, in case of dispute, shall be ascertained and determined as hereinafter provided.

Provision of privies, &c.

36. *Clause 1.*—In case the municipality shall be of opinion that any privy or cesspool, or additional privies or cesspools, should be provided for any house or building, they may by written notice call upon the owner of such house or building to provide the same in such manner as the municipality deem proper.

Clause 2.—The municipality may by written notice require any person or persons employing workmen or labourers exceeding twenty in number, or owning or managing any market, to provide such latrines and urinals as may seem to them fit, and to cause the same to be kept in proper order, and to be daily cleaned.

Clause 3.—The municipality may by written notice require the owner or occupier of any house or building having a privy on his premises to have such privy shut out by a sufficient roof and a wall or fence from the view of persons passing by or resident in the neighbourhood, or to alter as they may direct any privy-door or trapdoor opening on to any street which they deem to create a nuisance.

Sufficient drainage of houses.

37. *Clause 1.*—If any house or building in or near any street be at any time undrained, or not drained to the satisfaction of the municipality by a sufficient drain or pipe communicating with some sewer, drain, stream, river or the sea, or other suitable place, and if there be such means of drainage within fifty feet of any part of such house or building, the municipality may by written notice call upon the owner to construct or lay from such house or building a drain or pipe of such size and materials, at such level, and with such fall, as they think necessary for the draining of such house or building.

Clause 2.—All covered sewers and drains, and all cesspools, whether public or private, shall be provided by the municipality or other persons to whom they severally belong with proper traps, or other coverings or means of ventilation, and the municipality may by written notice call upon the owner of any such covered sewers, drains or cesspools to make provision accordingly.

Unauthorized drains, &c.

38. *Clause 1.*—Whoever, without the written consent of the municipality first obtained, makes or causes to be made any drain into or out from any of the sewers or drains vested in the municipality by this Act, shall be liable to the penalty hereinafter prescribed, and the municipality may by written notice require such person to demolish, alter, re-make or otherwise deal with such drain as they may think fit.

Clause 2.—No building shall be newly erected or rebuilt over any sewer, drain, culvert, gutter, tunnel, water-pipe or water-course vested in the municipality by this Act without the written consent of the municipality, and the municipality may by written notice require the person who may have erected or rebuilt such building to pull down or otherwise deal with the same as they may think fit.

Municipal control over drains, &c.

39. *Clause 1.*—All sewers, drains, privies, house-gullies and cesspools within the municipal limits shall be under the survey and control of the municipality, and, if private, shall be altered, repaired and kept in proper order at the cost and charges of the owners of the land and buildings to which the same belong, or for the use of which they are constructed or continued, and the municipality may by written notice require such owner to alter, repair and put the same in good order in such manner as they think fit.

Clause 2.—If any such sewer, drain, privy, house-gully or cesspool be constructed, after this Act comes into operation, contrary to the directions or general regulations of the municipality or the provisions of this Act, or if any person without the consent of the municipality construct any new sewer, drain, privy, house-gully or cesspool, or construct, rebuild, or unstop any sewer, drain, privy, house-gully or cesspool which has been ordered by them to be demolished or stopped-up or not to be made, every person so doing shall be liable to the penalty hereinafter provided, and the municipality may in addition require by

written notice such person to demolish or make such amendment or alteration in any such drain or privy as they may think fit.

Inspection of drains, &c.

40. The municipality or any officer appointed by them for such purposes may, subject to the restrictions of this Act, inspect any sewer, drain, privy, house-gully or cesspool, and for that purpose, at any time between sunrise and sunset, may enter upon any lands or buildings, with assistants and workmen, and cause the ground to be opened where he or they may think fit, doing as little damage as may be; and if upon such inspection it appears that the sewer, drain, privy, house-gully or cesspool is not in good order and condition, or that it has been constructed after this Act came into operation contrary to the provisions thereof, the expenses of such inspection shall be paid by the person to whom such sewer, drain, privy, house-gully or cesspool may belong, and shall be recoverable as hereinafter provided; but if the sewer, drain, privy, house-gully or cesspool be found to be in proper order and condition, and not to have been constructed in violation of the provisions of this Act, the municipality or officer as aforesaid shall cause the ground to be closed and made good as soon as may be, and the expense of opening, closing and making good as aforesaid shall be defrayed by the municipality.

Troughs and pipes for rain-water.

41. The municipality may by written notice require the owner of every house and building in any public street to put up and keep in good condition proper troughs and pipes for catching and carrying the water from the roof and other part of such house or building, and for discharging the same in such manner as they may think fit, so that it shall not fall upon the persons passing along the street.

Removal of projections.

42. *Clause 1.*—The municipality may by written notice require the owner or occupier of any house or building to remove or alter any projection, encroachment, or obstruction which, although erected before this Act comes into operation in the place, shall have been erected or placed against or in front of such house or building, if the same overhangs or juts into, or in any way projects or encroaches upon, any public street, so as to be an obstruction to the safe and convenient passage along such street, or if the same projects and encroaches into or upon any uncovered aqueduct, drain or sewer in such street so as to obstruct or interfere with such aqueduct, drain or sewer, or the proper working thereof:

Provided always, that if such projection, encroachment or obstruction shall have been lawfully made, the municipality shall make reasonable compensation to every person who suffers damage by such removal or alteration; and if any dispute shall arise touching the amount of such compensation the same shall be ascertained and determined in the manner hereinafter provided.

Clause 2.—The municipality shall possess similar power, but shall not be

under the obligation of making compensation, with respect to all such projections, encroachments or obstructions which shall be erected or placed after this Act comes into operation in the place.

Clause 3.—The municipality may give written permission to the owners or occupiers of houses or buildings in public streets to put up open verandahs, balconies or rooms, to project from any upper story thereof to an extent not exceeding four feet beyond the line of the plinth or basement-wall, and any person putting up such verandahs, balconies or rooms without such permission shall be liable to the penalty hereinafter provided.

Regulation of hedges, trees, &c.

43. The municipality may by written notice require the owner or occupier of any land so to trim or prune the hedges thereof bordering any public street that the said hedges may not exceed the height of four feet from the level of the street, and width of four feet, and to cut down, lop or trim all trees or shrubs which in any way overhang, endanger or obstruct, or which they deem likely to overhang, endanger or obstruct, any public road or street or to cause damage thereto, or which so overhang any public tank, well or other provision for water-supply as to pollute, or be likely to pollute, the water thereof.

Fixing of brackets, &c., to houses.

44. The municipality may erect or fix to the outside of any house or building brackets for telegraphic wires or lamps, and such pipes as they may deem necessary for the proper ventilation of sewers and water-works, and such brackets and pipes shall be erected so as not to occasion any inconvenience or nuisance to the said house or building or any others in the neighbourhood.

Naming streets and numbering houses.

45. The municipality may from time to time cause to be put up or painted on a conspicuous part of any house at or near each end, corner or entrance to every street, the name by which such street is to be known, and may from time to time fix a number in a conspicuous place on the outer side of any building, or at the entrance of the enclosure thereof fronting the street.

Any person who destroys, pulls down or defaces any such name or number, or puts up any name or number different from that put up by the municipality, and any owner or occupier who shall not at his own expense keep such number in good order after it has been put up, shall be liable to the penalty hereinafter provided.

Ruinous or dangerous buildings.

46. If, in any street, any house, building or wall, or any thing affixed thereon, be deemed by the municipality to be in a ruinous state or likely to fall, or in any other way dangerous to the inhabitants of such house or building, or the neighbouring houses or buildings or the occupiers thereof, or to passengers, they shall immediately, if it appears to them to be necessary, cause a proper hoard or fence to be put up for the protection of passengers; and shall cause notice in writing to be given to the owner or occupier, requir-

ing such owner or occupier forthwith to take down, secure or repair such house, building, wall or thing affixed thereon, as the case shall require,

and if such owner or occupier do not begin to repair, take down or secure the same within three days after such notice, and complete such work with due diligence, the municipality shall cause all or so much of such house, building, wall or thing as they shall think necessary to be taken down, repaired or otherwise secured; and all the expenses incurred by the municipality shall be paid by the owner or occupier of the premises, and shall be recoverable as hereinafter provided:

Provided always, that if the danger be not of hourly imminence, it shall be at the discretion of the municipality to issue in the first instance notice in writing to the owner or occupier to put up a proper hoard within two days, and to take action as above in the event of non-compliance with such notice.

Displacing pavements, &c.

47. Whoever displaces, takes up or makes any alteration in the pavement, gutter, flags or other materials, or in the fences, walls or posts of any public street, without the written consent of the municipality or other lawful authority, or, having displaced, taken up or made alteration in any such pavement, gutter, flags or other materials, or in fences, walls or posts, shall fail to replace or restore the same to the satisfaction of the municipality after notice to do so, shall be liable to the penalty hereinafter provided, and shall pay any expense which may be incurred in restoring the street, which shall be recovered in the manner hereinafter provided.

Obstructions.

48. Whoever after this Act comes into operation in any place, shall build any wall, or erect or set up any fence, rail, post, step, stall or any erection or thing, or other obstruction or encroachment in any public street, or shall deposit, or cause to be placed or deposited, any box, bale, package of merchandise or any other thing in such street, or in or over or upon any open drain, gutter, sewer or aqueduct in such street, shall be liable to the penalty hereinafter provided;

and the municipality shall have power to remove any such obstruction or encroachment, and the expense of such removal shall be paid by the person erecting or depositing the same, and shall be recoverable as hereinafter provided.

Nothing herein contained shall prevent the municipality from allowing any temporary erections in any public street on occasions of festivals and ceremonies, or the piling of fuel in bye-streets and spaces for not more than four days, and in such manner as not to inconvenience the public or any individual.

Hoards to be set up

49. Every person intending to build or take down any building, or to alter or repair the outward part of any building, where any street will by means

during repairs, &c.

of such work be obstructed or rendered unsafe or inconvenient, shall, before beginning the same, and having first obtained a license in writing from the municipality so to do, cause sufficient hoards or fences to be put up in order to separate the building where such works are being carried on from the street, and shall continue such hoard or fence standing and in good condition to the satisfaction of the municipality during such time as the public safety or convenience requires, and shall cause the same to be sufficiently lighted during the night, and shall remove the same when directed by the municipality.

Whoever contravenes the provisions of this section shall be liable to the penalty hereinafter provided.

Fencing and lighting during repairs, &c.

50. The municipality shall, during the construction or repair of any of the streets, sewers, drains or other premises vested in them, take proper precaution for guarding against accident by shoring up and protecting the adjoining buildings, and shall cause such bars, chains or posts to be fixed across or in any of the streets to prevent the passage of carriages, carts or other vehicles, cattle or horses, while such works are carried on, as to them shall seem proper;

and the municipality shall cause any sewer or drain or other works in streets, during the construction or repair thereof, to be sufficiently lighted and guarded during the night; and whoever takes down, alters or removes any of the said bars, chains, or posts, or removes or extinguishes any light, without the authority or consent of the municipality, shall be liable to the penalty hereinafter provided.

Timber not to be deposited or hole made in street without permission.

51. No person shall deposit any timber or building material or make a hole in any street without the written permission of the municipality; and such permission shall be terminable at the discretion of the municipality; and when such permission is granted to any person, he shall, at his own expense, cause such materials or such hole to be sufficiently fenced and enclosed until the materials are removed, or the hole is filled up or otherwise made secure to the satisfaction of the municipality, and shall cause the same to be sufficiently lighted during the night.

Whoever contravenes the provisions of this section shall be liable to the penalty hereinafter provided.

Dangerous places.

52. If any place whatsoever be, for want of sufficient repair, protection or enclosure, in the opinion of the municipality dangerous to passengers, they may by written notice require the owner thereof to repair, protect or enclose the same within twenty-four hours, so as to prevent danger therefrom.

Depositing dust, &c.

53. *Clause 1.*—Whoever deposits, or causes or permits any member of his family or household to deposit, any dust, dirt, dung, ashes, garden, kitchen or stable-refuse, or filth of any kind, or any animal-matter, or any broken glass or

earthenware or other rubbish, or any other thing that is, or may be, a nuisance, in any street or on any public quarry,[a] jetty or landing place, or on any part of the seashore or the bank of a tidal river, whether above or below high watermark, or on any river-bank, except at such places, in such manner and at such hours as shall be fixed by the municipality, and whoever obeys, or permits any member of his family or household to obey, the calls of nature in any street, shall be liable to the penalty hereinafter provided.

Clause 2.—Whoever throws or puts, or causes or permits any member of his household to throw or put, any of the matter above described, or, except with the permission of the municipality, any nightsoil into any sewer, drain, culvert, tunnel, gutter or water-course, or into any drain communicating therewith, shall be liable to the penalty hereinafter provided.

Discharging sewage, &c.

54. Whoever causes or allows the water of any sink or sewer, or any other offensive liquid or other matter from his premises, or from his land, to run, drain or be thrown or put upon any street, or to soak through a wall in any street, or causes or allows any offensive matter from any sewer or privy to run, drain or be thrown into a surface-drain in any street, without the permission in writing of the municipality, shall be liable to the penalty hereinafter provided.

Non-removal of filth, &c.

55. Whoever, being the owner or occupier of any building or land, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, nightsoil, filth or any noxious or offensive matter, in or upon such building or land, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to remove the filth therefrom and to cleanse and purify the same, or keeps or allows to be kept in or upon such building or land any animal in such a way as to be a nuisance, shall be liable to the penalties hereinafter provided.

Removal of nightsoil.

56. The municipality may from time to time fix the hours within which only it shall be lawful to remove any nightsoil or other such offensive matter; and when they have fixed such hours and given public notice thereof by beat of batáki,

whoever removes, or causes to be removed, along any street any such offensive matter at any time except within the hours so fixed, or

whoever at any time, whether such hours have been fixed by the municipality or not, uses for any such purpose any cart, carriage, receptacle or vessel not having a covering proper for preventing the escape of the contents thereof, and of the stench therefrom, or

who wilfully or negligently slops or spills any such offensive matter in the removal thereof, or

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[a] *Sic* in orig. Read "quay."

who does not carefully sweep and clean every place in which any such offensive matter has been slopped or spilled, or

who places or sets down in any public place any vessel containing such offensive matter, or

who drives or takes or causes to be driven or taken any cart, carriage, receptacle or vessel used for any such purpose as aforesaid, through any street or by any route other than such as shall from time to time be appointed for that purpose by the municipality by public notice,

shall be liable to the penalty hereinafter provided.

Halálkhor-service.

57. *Clause 1.*—It shall be lawful after notice given to the occupier or occupiers of any building or land, or to the occupiers generally within the municipal district or any recognised division thereof, for the municipality to perform by their agents the duties usually performed by sweepers with regard to such building, land, district or division, and to make suitable provision accordingly.

Clause 2.—When the municipality shall have made such provision, the occupier, or the several occupiers, of the building or land so served, or all the several occupiers of buildings or lands situated within the district or division regarding which such notice may have been given, shall become liable to pay any special cess which may be levied for such purposes under the rules contemplated in section 14 of this Act.

Filthy buildings, &c.

58. Whoever, being the owner or occupier of any building or land, whether tenantable or otherwise, suffers the same to be in a filthy and unwholesome state, or in the opinion of the municipality a nuisance to persons residing in the neighbourhood, or overgrown with rank and noisome vegetation, and who shall not, within twenty-four hours after notice in writing by the municipality to cleanse, clear or otherwise put the same in a proper state, have complied with the requisition contained in such notice, shall be liable to the penalty hereinafter provided:

Provided that, if the state of the house or building be such as in the judgment of the municipality to render it unfit for human habitation, they may further prohibit the using thereof for that purpose until it is so rendered fit.

Power to enter and inspect, &c., buildings.

59. It shall be lawful for the municipality or any officer appointed by them for such purposes, any time between sunrise and sunset, on giving such notice as hereinafter provided, to enter into and inspect all buildings and lands, and by written notice to direct all or any part to be forthwith internally and externally limewashed or otherwise cleansed, for sanitary reasons.

Bathing-places.

60. The municipality may set apart sufficient public places or any part of the seashore (not being private property) for the purpose of being used as bathing-places; and may also provide or set apart a sufficient number of convenient tanks or runs of water for the inhabitants to bathe in; and may also

set apart tanks or reservoirs or runs of water for washing animals or clothes, and for all purposes connected with the health, cleanliness and comfort of the inhabitants.

Fouling water.

61. Whoever, in disobedience of any order of the municipality under section 60 of this Act, bathes in any stream, tank or reservoir, well, cistern, conduit or aqueduct belonging to the municipality, or washes, or causes to be washed, therein any animal, or anything whatever, or throws, puts or casts, or causes to enter, therein any animal, or anything, or causes or suffers to run, drain or be brought thereinto, anything that is, or may be, a nuisance, or does anything whatsoever whereby any such water shall be in any degree fouled or corrupted, or

whoever, without permission of the municipality, steeps in any tank, stream or ditch within the municipal district any animal, vegetable or mineral matter likely to render the water of such tank, stream or ditch offensive or a nuisance,

shall be liable, on conviction before a Magistrate, to the penalty hereinafter provided.

Abatement of nuisances.

62. When any pool, ditch, tank, pond, well, hole or any waste or stagnant water, whether the same be within any private enclosure or otherwise, shall appear to the municipality to be likely to prove injurious to the health of the inhabitants or offensive to the neighbourhood, the municipality may by written notice require the owner of the same to cleanse or fill up, or drain-off, or remove the same, or to take such measures as shall, in their opinion, be necessary to abate or remove the nuisance.

Using offensive manure, &c.

63. Whoever, except with the written permission of the municipality and in the way (if any) enjoined in such permission, stores or uses nightsoil, or other manure or substance, emitting an offensive smell, shall be liable to the penalty hereinafter provided.

Tethering cattle, &c.

64. Whoever shall tether cattle or other animals, or cause or permit them to be tethered by any member of his family or household, in any public street, so as to obstruct or endanger the public traffic therein, or who causes or permits such animals to stray about without a keeper, shall be liable to the penalty hereinafter provided.

Consumption of smoke.

65. It shall be lawful for the municipality to direct, by public notice, that every furnace employed or to be employed in any works or buildings used for the purposes of any trade or manufacture whatsoever within the limits of the municipal district, whether a steam-engine be or be not used or employed therein, shall in all cases be constructed or altered so as to consume or burn, or reduce as far as may be practicable, the smoke arising from such furnace;

and if any person shall after such direction use, or permit to be used, any such furnace which shall not be constructed or altered so as to consume or burn its own smoke, or shall so negligently use, or permit to be used, any such furnace as that the smoke arising therefrom shall not be effectually consumed or burnt, every person so offending, being the owner or occupier of the premises, or being an agent or other person employed by such owner or occupier for managing the same, shall, upon conviction before any Magistrate, be liable to a penalty not exceeding one hundred rupees, and upon each subsequent conviction a sum double the amount of the penalty imposed for the last preceding conviction:

Provided that nothing in this section shall be held to apply to locomotive engines used for the purpose of traffic upon any railway, or for the repair of roads.

Licensing markets and slaughter-houses

66. *Clause 1.*—It shall be lawful for the municipality to direct that no place shall be used as a market for the sale of animals, meat, fish and vegetables intended for human food, or as a slaughter-house, excepting the public markets or slaughter-houses constructed or opened by the municipality, or such other markets or slaughter-houses as may have been licensed in writing by the municipality, who may, at their discretion, from time to time grant, withhold or withdraw such licenses, either generally or in individual instances.

Clause 2.—Whoever, contrary to such direction or without such license as aforesaid, sells or exposes for sale any such animals or commodities, or uses any place as a slaughter-house, shall be liable to the penalty hereinafter provided.

Opening, closing and letting of markets and slaughter-houses

67. *Clause 1.*—The municipality may from time to time open or close any public market or slaughter-house. They may also either take stallage or other rents or fees for the use, by any person, of any such market or slaughter-house, or from time to time sell by public auction or otherwise the privilege of occupying any stall or space in, or of otherwise using, any such market or slaughter-house.

Clause 2.—Any person who, without the permission or license of the municipality, shall sell or expose for sale any article in the said markets, or use the said slaughter-houses, shall be liable to the penalty hereinafter provided.

Search for unwholesome articles.

68. The municipality, or any officer authorized by them for such purposes, may at all reasonable times enter into and inspect any place used for the sale, either wholesale or retail, or for the storing, of articles intended for food or drink, or as a slaughter-house, and may examine any such articles which may be therein; and, in case any such articles appear to be unfit for food or drink, may seize the same; and if it appear to a Magistrate upon sufficient evidence that the same are unfit for food or drink, he shall order the same

to be destroyed, or to be so disposed of as to prevent their being exposed for sale or used for food or drink, and the owner thereof, or the person in whose possession the same are found, shall be liable to the penalty provided by section 273 of the Indian Penal Code.

Regulation of certain trades.

69. If it be shown, to the satisfaction of the municipality, that any building or place used

for melting tallow or sulphur; or

for boiling or storing offal, blood, bones or rags; or

for washing or drying wool or hair; or

as a soap-house, oil-boiling house, dyeing-house, tannery, brick, pottery or lime-kiln, manufactory of sago, distillery or other manufactory or place of storing hides, fish, horns, skins, from which either offensive or unwholesome smells arise; or

as a manufactory of gunpowder or fireworks, place of storing explosive substances, or hay, straw, fodder, wood, coal or other combustible material,

is a nuisance to the neighbourhood, or so used or situated as to be likely to be dangerous to life, health or property,

the municipality may by written notice require the owner or occupier to discontinue the use of such place, or to use it in such manner as they may deem will render it no longer a nuisance, or injurious or dangerous, and any person who contravenes the direction of such notice shall be liable to the penalties hereinafter provided.

Bye-laws for markets, slaughter-houses, and certain trades.

70. *Clause 1.*—The municipality may, in the manner provided in section 14 of this Act, make bye-laws for and with respect to the inspection and management of all markets and slaughter-houses within the municipal limits, the cleanly and proper conduct of business therein, and the charges for the use of such of them as may belong to the municipality.

Clause 2.—The municipality may also make bye-laws for the inspection or licensing of every place used for any of the purposes mentioned in section 69 and for the management and conduct of such business, whether the same be newly established or not, in such manner as they may think necessary and proper, in order to prevent or diminish the noxious, injurious, offensive or dangerous effect thereof.

Slaughter-houses, &c., beyond municipal limits.

71. It shall be lawful for the municipality, with the sanction of the Governor in Council or any officer authorized by him, to establish slaughter-houses or places for the disposal of carcases of animals beyond the limits of the municipal district, and all provisions of this Act and bye-laws relating to the management of such places within municipal limits shall have full force therein, as if such places were within the municipal limits.

Bye-laws or

72. The municipality may in the manner provided in section 14 of this

registration and census.

Act, make bye-laws regarding the registration of births, deaths and marriages, and the taking of a census.

Special sanitary exigencies.

73. In the event of the municipal district, or any part thereof, being at any time threatened or visited with an outbreak of any epidemic disease, the municipality is hereby empowered and directed, with the sanction of the Governor in Council or any officer duly authorized by him, to take such measures as may be deemed necessary to prevent, meet, mitigate or suppress any such outbreak.

Penalties.

74. *Clause 1.*—Any person who contravenes the provisions of the sections of this Act hereinafter enumerated shall for each offence be liable to penalties not exceeding those herein prescribed with reference to such sections respectively; that is to say:—

Sections 33, 38, 39, 42, 45, 47, 48, 49, 50, 51, 53, 54, 55, 56, 58, 63, 64, 66, 67	} Fine not exceeding	Rs. 25
61	„ „	Rs. 50
29, 69	„ „	Rs. 100

Clause 2.—Any person who after conviction or notice, as the case may be, continues the offences referred to in the sections of this Act hereinafter enumerated shall, in addition to any penalty which may have been imposed, be liable for each day of such continuance to the penalties herein prescribed with reference to such sections respectively; that is to say:—

Sections 38, 39, 42, 55, 56, 58, 64	...	Fine not exceeding	five	rupees.
„ 49, 51, 52	... ...	„ „	ten	„
„ 69 ...	... ..	„ „	thirty	„

Exception of notices.

75. All written notices which may be issued by the municipality under sections 33 to 39, 41 to 43, 46, 58, 62 and 69 of this Act shall prescribe a time, which shall, at the discretion of the municipality, be not less than three days or more than one month, within which the action prescribed in the notice should be taken by the person upon whom the notice is served.

In the event of non-compliance with the terms of the notice it shall be lawful for the municipality to take such action, or such steps, as may be necessary for the completion thereof, and all the expenses incurred by them shall be paid by the person or persons upon whom the notice was served, and shall be recoverable in the manner hereinafter provided.

VI.—Procedure, Prosecutions, Suits, &c.

Service of notices.

76. Every notice under this Act may be served personally upon the person to whom the same is addressed, or by leaving the same with some adult male member or servant of his family; or, if it cannot be so served, it may be put up on some conspicuous part of such person's place of abode. If the notice

relates to any building or land, and the place of abode of the owner is unknown, the notice shall be deemed to be duly served if put upon some conspicuous part of the building or land to which the same relates.

No notice shall be invalid for defect of form.

Municipality, in default of owner or occupier, may execute works and recover expenses.

77. *Clause 1.*—Whenever, under the provisions of this Act, any work is required to be executed by the owner or occupier of any house or land, and default is made in the execution of such work, the municipality, whether any penalty is or is not provided for such default, may cause such work to be executed; and the expenses thereby incurred shall be paid to them by the person by whom such work ought to have been executed, and shall be recoverable as hereinafter provided either in one sum or by instalments as to the municipality may seem fit.

Power to levy charges on occupier, who may deduct same from rent.

Clause 2.—If the defaulter be the owner of the house or land, the municipality may, by way of additional remedy, whether an action or proceeding has been brought or taken against such owner or not, require the payment of all or any part of the expenses payable by the owner for the time being from the person who then, or any time thereafter, occupies the house or land under such owner; and in default of payment thereof by such occupier on demand, the same may be levied by distress of the goods and chattels of such occupier;

every such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as is so paid by or recovered from such occupier in respect of any such expenses.

Occupiers not to be liable for more than amount of rent due.

Clause 3.—No occupier of any house or land shall be liable to pay more money in respect of any expenses charged by this Act on the owner thereof than the amount of rent due from him for the premises in respect of which such expenses are payable at the time of the demand made upon him, or which at any time after such demand and notice not to pay the same to his landlord has accrued and become payable by him, unless he neglect or refuse, upon application made to him for that purpose by the municipality, truly to disclose the amount of his rent, and the name and the address of the person to whom such rent is payable; but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall be upon such occupier:

Proviso.

Provided further that nothing herein contained shall be taken to affect any special contract made between any such person, owner or occupier, respecting the payment of the expense of any such works as aforesaid.

Occupier in default of owner may execute works and deduct

78. Whenever default is made by the owner of any house or land, in the execution of any work required to be executed by him, the occupier of such house or land may, with the approval of the municipality, cause such work to be executed, and the expense thereof shall be paid to him by the owner, or the

Expenses from rent.

amount may be deducted out of the rent from time to time becoming due from him to such owner.

Proceedings if any occupier opposes execution of Act.

79. If the occupier of any house or land prevent the owner thereof from carrying into effect, in respect of such house or land, any of the provisions of this Act, after notice of his intention so to do has been given by the owner to such occupier, any Magistrate, upon proof thereof and upon application of the owner, may make an order in writing requiring such occupier to permit the owner to execute all such works, with respect to such house or land, as may be necessary for carrying into effect the provisions of this Act, and may also, if it think fit, order the occupier to pay to the owner the costs relating to such application or order;

and if, after the expiration of eight days from the date of the order, such occupier continue to refuse to permit such owner to execute such works, such occupier shall, for every day during which he so continues to refuse, be liable to a penalty not exceeding fifty rupees; and every such owner, during the continuance of such refusal, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

Entry for purposes of Act.

80. It shall be lawful for the municipality, or any officer authorized by them for such purposes, to enter for the purposes of this Act, between sunrise and sunset, into and upon any building or land, as well for the purpose of making any survey or inspection they may be entitled to make, as for the purpose of executing any work authorized by this Act to be executed by them:

Provided that, except when herein otherwise provided, the municipality or their said officer shall not enter upon any building or land which may be occupied at the time, unless with the consent of the occupier thereof, without previously giving the said occupier twenty-four hours' written notice of their or his intention to do so:

Provided also that, in the case of buildings used as human dwellings, due regard shall be paid to the social and religious prejudices of the occupiers.

Arbitration in cases of compensation, &c.

81. If a dispute arises with respect to any compensation, damages, costs or expenses which are by this Act directed to be paid, the amount, and if necessary the apportionment of the same, shall be ascertained and determined by a panchâyat of five persons, of whom two shall be appointed by the municipality, two by the party to receive compensation, and one, who shall be sar-panch, shall be selected by the members already appointed as above.

If either party or both parties fail to nominate representatives, or if the members fail to appoint a sar-panch within one month from the date of either party receiving written notice from the other of claim to such compensation, damages, costs or expenses, such members as may be necessary to constitute a panchâyat shall be appointed, at the instance of either party, by the District Judge.

In the event of the panchâyat not giving a decision within one month from the date of the appointment of the sar-panch, the matter shall, on application by either party, be determined by a Court under the provisions of Act X of 1870.

Municipality may prosecute.

82. The municipality may direct any prosecution for any public nuisance whatever, and may order proceedings to be taken for the recovery of any penalties, and for the punishment of any persons offending against the provisions of this Act, and may order the expenses of such prosecution or other proceedings to be paid out of the municipal fund, and no prosecution for an offence under this Act shall be instituted except within three months next after the commission of such offence.

Damage to municipal property, how made good.

83. *Clause 1.*—If through any act, neglect or default, on account whereof any person shall have incurred any penalty imposed by this Act, any damage to the property of the municipality shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty, and the amount of damage shall, in case of dispute, be determined by the Magistrate by whom the party incurring such penalty shall have been convicted, and on non-payment of such damage on demand the same shall be levied by distress, and such Magistrate shall issue his warrant accordingly.

Clause 2.—It shall be lawful for the municipality in lieu of proceeding by distress and sale, or in case of failure to realize by distress the whole or any part of any compensation, expenses, charges or damages awarded under this Act, to sue, in any Court of competent jurisdiction, the person liable to pay the same, as also any person who may have in any other way caused, or may appear likely to cause, any loss or innovation of any of the property, rights or privileges of the municipality.

Clause 3.—The municipality may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in them, their officers and servants, under this Act.

Jurisdiction of Magistrate.

84 Every prosecution under this Act or under the bye-laws made in accordance with the provisions of this Act may be instituted before any Magistrate, whether the said Magistrate be a Municipal Commissioner or not, and every fine or penalty imposed under or by virtue of this Act or any bye-law made in pursuance thereof, as also upon information laid by order of the municipality, all arrears of taxes, stallage and other rents and fees, and all expenses, may be recovered by a summary proceeding before such Magistrate in the manner provided in the Code of Criminal Procedure.

Distress lawful though defective in form.

85. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction or warrant of distress, or

other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

Actions against municipality

86. No action shall be brought against the municipality, or any of their officers, or any person acting under their direction, for any thing done or intended to be done under this Act, until the expiration of one month next after notice in writing shall have been delivered or left at the office of the municipality, or at the place of abode of the intended defendant, stating with reasonable particularity the cause of action, and the name and place of abode of the intended plaintiff;

and upon the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action, except such as is stated in the notice so delivered, and unless such notice be proved, the Court shall find for the defendant; and every such action shall be commenced within three months next after the passing of the final order by the municipality or officer having power to pass such order, and not afterwards;

and if any person to whom any such notice of action is given shall, before action brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender.

Powers of Police-officers.

87. *Clause 1.*—Any Police-officer may arrest any person committing in his view any offences against any of the provisions of this Act if the name and address of such person be unknown to him, or if such person decline to give his name and address, or if the Police-officer in question shall have reason to doubt the accuracy of such name and address if given; and such person may be detained at the station-house until his name and address shall be correctly ascertained:

Provided that no person arrested under the provisions of this Act shall be detained in any way without the order of some Magistrate longer than shall be necessary for bringing him before a Magistrate, or than forty hours at the utmost.

Clause 2.—It shall also be the duty of all Police-officers to give immediate information to the municipality of any offence committed contrary to the provisions of this Act, and to assist all Collectors and other municipal officers and servants in the exercise of their lawful authority.

VII.—Municipal Accounts and Government Control.

Quarterly and annual accounts

88. *Clause 1.*—It shall be the duty of the President, or in town-municipalities of the Vice-President, to lay or cause to be laid before the municipality at

their quarterly general meetings which take place in July, October and January, complete accounts of the receipts and expenditure of the municipal fund during the period which may have elapsed since the commencement of the official year on April first preceding; and at their annual general meeting in April a complete such account for the year just expired, together with a budget-estimate for the year then just commenced, showing what expenditure has been, or it is proposed by the municipal executive should be, sanctioned for such year, and the manner in which it is proposed that such expenditure should be met:

Provided always, that the date of commencement of the official year may at any time be changed by Government.

Clause 2.—The municipality shall thereupon, or after audit of the past year's accounts if it has not previously taken place, pass the accounts of the past year and decide upon the appropriations, and the ways and means, contained in the budget of the year then just commenced.

The budget so sanctioned may be varied or altered from time to time, as circumstances may render desirable, at a special general meeting called for the purpose.

Audit of accounts.

89. The municipal accounts shall from time to time, and once in every year at the least, be audited by such agency as may be prescribed in the rules required by section 14 of this Act.

The auditor or auditors shall, for the purposes of their office, have access to all the accounts and other records of the municipality.

Transmission of accounts to Government

90. The municipality shall, as soon as the annual accounts have been finally passed by them, transmit to the Governor in Council, or any officer duly authorized by him, a copy thereof, or an account in such form as the Governor in Council may prescribe, and shall furnish such details and vouchers relating to the same as he may from time to time direct.

Powers of Government in cases of municipal default.

91. *Clause 1.*—Whenever it shall have been ascertained by the Governor in Council, through the Commissioner of Police or District Magistrate, or other person or persons appointed by the Governor in Council to inquire into and report on the subject, that the municipality of any place have neglected any work or duty falling within the scope of this Act, which is, in the opinion of the Governor in Council, emergently necessary for the public health or safety, it shall be lawful to the Governor in Council to issue an order to the said municipality to execute such work or perform such duty, and if that order be not obeyed, or in process of being obeyed, within one week from the date of its receipt by the municipality, the Governor in Council may direct the District Magistrate to execute the said work, or to perform the said duty, and to recover the expense thereof from the municipal fund;

and in failure of immediate payment of the said expense by the municipality out of the said fund, the Governor in Council may recover the amount by suit in the civil Court or Courts having jurisdiction in the said place, and the costs of the suit shall be recoverable from the municipality.

The said municipality may, out of the municipal fund, or by further taxation lawfully imposed, defray any sum or sums which they may be compelled to pay to the Governor in Council for the expenses of the execution of such work or performance of such duty.

The said suit shall be instituted in the name of the Secretary of State for India in Council.

Clause 2.—The Governor in Council shall possess powers similar to the above in the event of the municipality of any place neglecting or refusing to make payments for the purposes of Police to the extent provided in section 24 of this Act.

VIII.—Publicity of Municipal Proceedings: Appeals.

Meetings to be public.

92. All general meetings, and all meetings of any managing committee, sub-committee, or other body of Commissioners holding municipal executive authority, and the office of any officer having the sole executive authority, shall be open to the public:

Provided that the person presiding, or the sole executive officer, as the case may be, may cause to be ejected any person interrupting the proceedings, and may direct the public to withdraw pending any inquiry or deliberation of a private nature.

Minutes of proceedings.

93. *Clause 1.*—Minutes of the proceedings of all general meetings shall be drawn up in the vernacular language, and in English also where practicable, and fairly entered in a book to be kept for the purpose, and shall be signed by the officer who presided at such meeting.

Decisions under section 12 of this Act shall be similarly recorded.

Clause 2.—Similar minutes in the vernacular language shall be kept of the proceedings of all committees or other bodies of Commissioners holding municipal executive authority.

Clause 3.—The above minutes shall at all reasonable times be open to the inspection of all inhabitants of the place.

Publication of accounts.

94. The quarterly and annual accounts of receipts and expenditure, and the budget when sanctioned, shall similarly be open to inspection, and shall be published in the vernacular language in any newspaper which may exist in or near the place, or in any other manner which the municipality may prefer.

Rules to be printed and sold.

95. The rules in force under section 14 of this Act shall be kept at the municipal office for public inspection, and shall be printed in the vernacular language, and sold at a reasonable price.

96. *Clause 1.*—Complaints against the stipendiary establishment shall in the first instance be laid before the person or persons constituted, by the rules in force under section 14 of this Act, primarily responsible for the current executive administration. Complaints and appeals where to be laid.

Clause 2.—Persons dissatisfied with the decision of the above-mentioned authority in such cases, or wishing to appeal against any other decisions or orders made by them, which are appealable under the said rules, may prefer an appeal to the President, or in town-municipalities to the Vice-President, within thirty days of the date of such decisions.

Clause 3.—In city-municipalities the President, in the event of his differing from the decision or order, shall, in communication with the above-mentioned authority, endeavour to cause redress to be afforded to the complainant, and failing to do so, shall lay the case before the municipality at the next general meeting, or under section 12 of this Act.

In town-municipalities the President, or the Vice-President if the appeal shall have been made to him or referred to him by the President, shall pass such order as he may think fit, which order shall be final.

97. Nothing in this Act shall be held to debar any person from suing any municipality in a Court of competent jurisdiction for any loss or wrong occasioned to him by the said municipality, its officers or servants. Right to sue municipality

98. It shall be the duty of each Police Commissioner to inspect the accounts and proceedings of every municipality which he may visit during his tour of inspection, and to report to the Government his opinion of the manner in which this Act is being carried out in such municipality. Inspection by Police Commissioners.

99. The Governor in Council may from time to time depute to the Police Commissioners all or any of the powers or duties which under this Act are required or intended to be exercised or performed by the Governor in Council, with the exception of the power conferred on the Governor in Council under sections 27 and 90 of this Act, and may from time to time revoke such powers or duties or any parts or part thereof. Delegation of powers by Government to Police Commissioners.

ACT No. VII OF 1873.

Received the Governor's assent on the 17th of November, 1873, and the Governor General's assent on the 2nd of May, 1874, and published by the Governor on the 19th of May, 1874.

An Act for consolidating and amending the law relating to Salt in the Presidency of Bombay.

WHEREAS it is expedient for the better protection of the salt-revenue to Preamble.

amend and consolidate the laws relating to the manufacture, storage, possession and transport of salt in the Presidency of Bombay, exclusive of the Province of Sindh, It is enacted as follows —

Short title

1 This Act may be cited as "The Bombay Salt Act, 1873"

2 —[*Repealed by Act No XII of 1876*]

Interpretation clause

3 The following words shall have the several meanings hereby assigned to them, unless where a contrary intention shall appear from the context, that is to say —

the word "manufacture" shall include the preparation and collection of salt

the words "salt work" shall mean any place used or intended to be used for the manufacture of salt, and shall include the embankments, reservoirs, evaporating pans, places at which salt is stored, and all lands on which salt is spontaneously produced

the words "licensee of a salt-work" shall denote the person or persons licensed to manufacture salt at a salt-work

the words "contraband salt" shall denote salt manufactured without license, and salt removed from any salt-work, and salt stored or packed, or landed or in transit, or in the possession of any person, in contravention of any provision of this or any other Act relating to the salt-revenue, or of any order or permit issued under this Act, or of any of the rules made or to be made in pursuance thereof

the word "ser" shall mean a weight of eighty tolas

the word "vessel" shall denote anything made for the conveyance by water of human beings, animals or property

the words "Collector of Salt-revenue" shall denote the officer authorized for the time being to exercise under Government the chief control in the Department of Salt-revenue

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PART I —Appointment and Duties of Officers

When salt is in possession of, or is removed by, a person's servant or agent on his account, it shall be deemed to be in that person's possession, or to have been removed by that person, for the purposes of this Act

Governor in Council to control Department of Salt-revenue and appoint officers

4 The control of the Department of Salt-revenue in the Presidency of Bombay shall vest in and be exercised by the Governor in Council, who may, from time to time, subject to the general control of the Governor General of India in Council, appoint persons, under the designation of Collector, Deputy and Assistant Collector of Salt-revenue, or under such other designations as may seem fit, to exercise the powers conferred and to perform the duties imposed by this Act, and he may suspend or dismiss any persons so appointed.

Appointment, punishment and dismissal of subordinate officers.

5. The appointment of all subordinate officers shall, under such rules as the Governor in Council may from time to time sanction, rest with the Collector of Salt-revenue and his assistants, who may at any time, after inquiry recorded in writing, fine, dismiss, suspend or reduce any subordinate officer so appointed who shall be remiss or negligent in the discharge of duty, or unfit from any cause for the discharge of the same.

Appeals from orders of officers.

6. An appeal shall lie from all proceedings and orders of subordinate officers in the Department of Salt-revenue to their respective immediate superior officers, and an appeal shall lie from all proceedings and orders of Deputy and Assistant Collectors of Salt-revenue to the Collector of Salt-revenue, whose proceedings and orders shall be subject to the general control of the Governor in Council.

7.—[*Repealed by Act No. XII of 1876.*]

Officers may enter and inspect salt-works and storage-places.

8. Any officer appointed under this Act, or any Revenue, Police or Customs-officer may enter and inspect at any time by day or night any salt-work, or any warehouse or premises used for storing salt, or any vessel which has been or is proposed to be laden with salt.

Authority to arrest without warrant person suspected of offence against salt-laws.

9. Any officer appointed under this Act and any Revenue, Customs or Police-officer, may, without warrant or order from a Magistrate, arrest and detain any person, whether on land or water, against whom reasonable suspicion exists that he has been guilty of any offence against this or any other Act relating to the salt-revenue, or against any of the rules made or to be made in pursuance thereof, and shall forward any person so detained without delay to the nearest Magistrate or Police-station, or to an officer in charge of a salt-work or preventive station.

Inquiry by officer to whom arrested person brought.

10. When any person arrested as aforesaid shall have been forwarded to any officer in charge of a salt-work or preventive station, such officer may detain him in custody and shall proceed to inquire into the charges against him:

Provided that any person so detained may at the discretion of such officer be liberated on giving recognizance or security to appear at such time and place as may be appointed for his appearance.

Officer making inquiry to forward person to nearest Magistrate, if offence appear to have been committed.

11. If the person arrested appears from the information obtained to have committed any offence against this or any other Act relating to the salt-revenue, or against any of the rules made in pursuance thereof, the officer making the inquiry mentioned in the last preceding section shall forward him under custody to the nearest Magistrate or other officer duly authorized to take cognizance of the offence.

Accused person not to be detained

12. No officer in charge of a salt-work or of a preventive station shall, without the special order of a Magistrate, detain an accused person in custody

more than 24 hours.

for a longer period than under all the circumstances of the case is reasonable, such period in no case to exceed twenty-four hours.

If not sufficient evidence, accused to be released at once.

13. If it shall appear to the officer in charge of a salt-work or preventive station, that there is not sufficient evidence or reasonable ground of suspicion to justify the transmission of the accused person to the Magistrate or other officer duly authorized to take cognizance of the offence, he shall at once release the accused person, and submit a report of the case for the orders of his immediate superior.

Power to seize salt suspected to be contraband and animals, carriages or vessels used in transporting it.

14. Any officer appointed under this Act, or any Revenue, Customs or Police-officer, may seize and detain any salt which he may reasonably suspect to be contraband, and any animals, carriages or vessels used in transporting it, or in or upon which it may be found, and all goods and packages in which or among which it may be contained or concealed, and shall have power to search all persons, animals, carriages, vessels, goods and packages in or upon whom or which he may have reasonable cause to suspect contraband salt to be, or to be concealed.

Power to issue search-warrant

15. Any Magistrate or Justice of the Peace may, on written application by any officer appointed under this Act, or by any Revenue, Customs or Police-officer, issue a warrant for the search of any house, building, premises or vessel in which there may be reasonable cause to suspect that contraband salt is, or is concealed.

The provisions of chapter XXVII of the Code of Criminal Procedure shall be applicable (so far as may be) to search-warrants issued under this section.

Duties of Customs, Police and Revenue-officers.

16. It shall be the duty of every Police or Customs or Revenue-officer to aid any officer appointed under this Act in the due execution of any duty imposed thereby on notice given or request made by such officer; and it shall be the duty of every officer in charge of a Police-station, upon receipt of complaints or information of the commission within the limits of his station of any offence punishable under this Act, or under any rule made in pursuance thereof, to take action in the manner prescribed in the Code of Criminal Procedure for the conduct of such Police-officer, upon receipt of complaint or information of the commission within the limits of his station of any offence specified in column 3 of the schedule annexed to the Code of Criminal Procedure, as an offence for which Police-officers may arrest without warrant.

Certain officers appointed under Act empowered to summon persons to obtain information connected with salt-revenue.

17. Any officer appointed under this Act, of not lower rank than a sarkárkún or a dárogha, may by written order require the attendance before himself, at a time and place to be mentioned in such written order, of any person who appears to be acquainted with the circumstances forming the subject of any inquiry which such officer is making for any of the purposes of this Act, and every person so summoned shall be bound to attend in person at the time and

place appointed in the said written order, and to furnish to such officer true information on any subject whatever connected with the salt-revenue on which such officer may question him, and to produce such documents, or things, being in his possession or within his control, as he may be required to produce by such officer.

Destruction of salt made without license.

18. Any officer appointed under this Act, and any Revenue, Customs or Police-officer, may enter at any time upon any lands or premises on which there shall be any manufacture of salt not licensed under the provisions of this Act, or any natural formation of salt, and he may take possession of or destroy any salt so manufactured or formed, and any works or constructions prepared or used for the purposes of such manufacture.

PART II.—Manufacture, Storage and Removal of Salt.

Salt not to be manufactured without license.

19. Within the Presidency of Bombay it shall not be lawful for any person who is not duly licensed in the manner hereinafter provided to manufacture salt.

Power to grant licenses.

20. It shall be lawful for the Collector of Salt-revenue to grant licenses for the manufacture of salt to such persons as he shall think fit.

Contents of license.

Each such license shall contain the name of the person to whom it is given, and shall specify the limits within which such manufacture may be carried on, and the place where the salt so manufactured shall be stored, and shall be subject to such further conditions as the Governor in Council may from time to time prescribe.

The Collector of Salt-revenue may at any time call for any such license, and amend or alter it in accordance with any conditions which may be so prescribed.

Register to be kept.

A register of such licenses shall be kept in the office of the Collector of Salt-revenue.

Existing salt-works to have licenses.

21. A license for the manufacture of salt shall not, except as hereinafter mentioned, be refused to the proprietor of any salt-work not being the sole property of Government which is being worked at the time of the passing of this Act, or which may have been worked within three years previous to the date of its introduction, or to any person who may establish by virtue of a sanad granted by the British or any former Government, a special and permanent right to manufacture salt.

Except in the case of salt-works owned by the holders of sanads as aforesaid, the Governor in Council may at his discretion at any time withhold or withdraw a license for manufacturing salt at any salt-work whatever, which on an average of the three years last preceding shall not have produced yearly at

least five thousand Indian maunds of salt; and with the like exception the Collector of Salt-revenue may at any time withdraw or withhold a license from any salt-work if no salt shall have been manufactured therein for the three years last preceding.

Chaukís and preventive stations to be established

22. The Collector of Salt-revenue may, for the purposes of this Act, cause chaukís to be erected at any place in any salt-work within the Presidency of Bombay without compensating the proprietor or owner thereof for the use of the land occupied thereby, and may station within the limits of any salt-work such persons as he may deem fit, and may establish preventive stations at convenient places to be selected in the neighbourhood of any salt-works.

Notice to be given of manufacture of salt not licensed under Act.

23. Every patel and other public servant of every village in which there shall be any manufacture of salt not licensed under the provisions of this Act, or any formation of salt, shall, within ten days after the existence of such manufacture or formation shall have come to his knowledge, give notice of the same to an officer appointed under this Act, or to a Magistrate, or to an officer in charge of a Police-station.

Penalty for not giving notice

If any person bound to give notice under this section shall wilfully omit or delay to give the same, he shall, for every such offence, be liable to a fine not exceeding five hundred rupees.

Ports for importation of salt to be notified.

24. *Clause 1.*—The Governor in Council may from time to time declare, by notification to be published in the *Bombay Government Gazette*, the ports within the Presidency of Bombay at which only it shall be lawful to import salt by sea, and may appoint proper places therein to be wharves for the landing of salt, and may declare the bounds and extent of such wharves, and may from time to time, by notification as aforesaid, forbid the import or landing of salt at any port or wharf at which such import or landing may at any previous time have been authorized, and may further forbid the import by land or sea of salt exported from any place, whether within or without British India, at any port or place within the Presidency of Bombay.

Clause 2.—The Governor in Council may also from time to time, by notification to be published in the Government Gazette, prescribe by what roads and passes salt shall be allowed to pass into or out of foreign territory or the territory of any Native Chief not subject to the jurisdiction of the Courts and civil authorities of the Bombay Presidency.

Salt not to be removed without permit.

25. No salt shall be removed from any salt-work in the Bombay Presidency without a permit to be obtained in the manner hereinafter mentioned:

Saving of Government salt-works.

Provided that nothing in this section shall be held to affect the Government-salt-works at Kháraghora on the Rann of Kachh, or any salt-works at which the manufacture of salt is carried on directly by or on behalf of Government.

Nature and contents of permit for removal of salt.

26. No permit for the removal of salt from any salt-work shall be granted except on written application in the form marked A annexed to this Act, which shall be signed and presented to the sar-kárkún or other officer in charge of the salt-work whence the salt is to be removed, both by the person desirous of removing salt and by the licensee, or agent lawfully appointed by him, of the salt-work whence it is to be removed.

There shall be stated in such application the quantity and cost-price of the salt intended to be removed, the name and residence of the person on whose account the salt is intended to be removed, the name of the place to which, and the route by which, it is intended to take the salt immediately after removal from the salt-work, and whether the said salt is intended for local consumption in the neighbourhood of the said place, or for subsequent transport or export elsewhere, and, if destined for transport or export elsewhere, the name of the place or district to which it is intended to be transported or exported.

Receipt to be given to applicant for permit.

27. When a written application for a permit for the removal of salt from any salt-work, together with the excise-duty leviable on the quantity of salt intended to be removed, shall have been received by the officer authorized to receive them, he shall deliver a receipt and order, in the form marked B annexed to this Act, to the persons making such application, which receipt and order shall specify the amount of duty paid, the quantity of salt to be removed, the work from which, and the person by whom, such quantity of salt is to be removed, the preventive station at which it is to be examined, and the place to which, and the route by which, it may be taken, and the number of days within which the salt must be conveyed to its immediate destination.

Blanks in receipt to be filled up by officer in charge, and portion of receipt delivered to applicant to be the permit

28. On production of the receipt and order aforesaid to the officer in subordinate charge of the salt-work to which it relates, he shall fill up the blanks which are marked therein as intended to be filled up by himself, and shall tear off and retain that part of the receipt and order which is therein marked to be retained by himself, and shall deliver the remaining portion to the person therein authorized to remove salt, and such portion of the receipt and order so delivered shall then be a permit authorizing the person therein named to remove the quantity of salt therein mentioned.[a]

Procedure in removing salt under permit.

29. Salt removed from salt-works under a permit, as described in the section last preceding, shall be taken along with the permit covering it direct to the preventive station mentioned in the permit, within the period allowed thereby.

The permit shall there be delivered to the officer in charge of the station,

[a] Salt covered by permits granted under this section is saved from Act No. VIX of 1879 (The Transport of Salt Act), section 2.

and the salt may be re-weighed or examined by him under such orders as the Collector of Salt-revenue may from time to time issue

If he shall be satisfied that the quantity of salt removed does not exceed the quantity mentioned in the permit, he shall allow it to pass, and it shall then be conveyed to the place mentioned in the permit within the period allowed thereby

Duty of permit holders in removing salt

30 It shall be the duty of the persons who have obtained an order for the removal of salt under section 27 of this Act to superintend, either in person or by agent lawfully appointed for the purpose, the removal of salt so authorized, and to test the weights and scales used in weighing out such salt, and to prevent the removal of salt in excess of the quantity mentioned in the said order

Grant of permit for removal of salt from Government warehouse

31 No permit for the removal of salt from any Government-warehouse or store shall be granted except on written application, which shall be signed by the person desirous of removing salt

There shall be stated in such application the quantity of salt intended to be removed, the name of the place to which, and the route by which, it is intended to take the salt immediately after removal from such Government-warehouse or store, whether the said salt is intended for local consumption in the neighbourhood of the said place, or for subsequent transport or export elsewhere, and if destined for transport or export elsewhere, the name of the place or district to which it is intended to be transported or exported [a]

Grant of certificate to permit holder

32 On the application of any person who shall have obtained as aforesaid a permit for the removal of any salt intended for export, and who shall have paid the duty, if any, on the same, the Collector of Customs at the place of export shall grant a certificate, under the authority of which the quantity of salt specified therein shall be landed at any other port of the Presidency of Bombay, without payment of any further duty.

PART III.—Suppression of Salt-works.

Power to Governor in Council to suppress salt work or to suspend or withdraw license

33 *Clause 1*.—It shall be lawful for the Governor in Council to suppress any salt-work or to suspend or withdraw the license to manufacture salt at any salt-work, the licensee of which, or his agent, shall have been guilty of any offence against the provisions of this Act, or of any breach of any rule made in pursuance thereof, or of any breach of the conditions specified in the license granted for the manufacture of salt at such work

Power to fine

It shall also be lawful for the Governor in Council to impose a fine not

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[a] Salt covered by a permit granted under this section is exempted from the Transport of Salt Act, 1879 section 2

exceeding rupees one thousand on the licensee of any salt-work if any of the persons employed thereat shall have been guilty of any offence against the provisions of this Act, or of any breach of the conditions specified in the license granted for the manufacture of salt at such work, unless the licensee of such salt-work shall establish to the satisfaction of the Governor in Council that all due and reasonable precautions were exercised by him to prevent the commission of such offence or breach of the conditions specified in the license.

It shall be at the discretion of the Governor in Council to determine for the purposes of this section whether any such offence, or breach of the conditions of the license, has been committed.

Recovery of fine.

Clause 2.—Any fine imposed by the Governor in Council under the preceding clause shall in default of payment be recoverable by the Collector of Salt-revenue in the manner prescribed for the recovery of penalties in section 58 of this Act.

Power to direct acquisition of salt-work.

34. The Governor in Council may, at his discretion, with a view to the summary suppression of any salt-work within the Presidency of Bombay, direct the acquisition of such salt-work under the provisions of Act X of 1870[a] or other law in force for the time being for the acquisition of land for public purposes.

Nothing contained in this section shall affect the powers vested in the Governor in Council and in the Collector of Salt-revenue under sections 21 and 33 of this Act.

PART IV.—Warehousing of Salt.

No buildings within certain limits of salt-works to be used for storing salt for sale unless licensed.

35. Except within the city and island of Bombay, no building, enclosure or premises within a distance of ten miles from any salt-work, or from any land-customs-station established under Act XXIX of 1857,[b] or from any port or place declared and appointed for the import or landing of salt, or within such other limits as the Governor in Council shall define by notification to be published in the *Bombay Government Gazette*, shall be used for the storing or reception of salt for purposes of sale unless licensed for that purpose by the Collector of Salt-revenue.

Power to make rules for regulating and licensing storage of salt for sale.

36. The Governor in Council may from time to time make rules for regulating and licensing the storage or possession of salt for purposes of sale within the limits mentioned in the section last preceding, and it shall be the duty of the Collector of Salt-revenue to issue licenses for the storage or possession of salt for purposes of sale within such limits to such persons and for such buildings, enclosures or premises as he shall deem fit.

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[a] See General Acts, vol II, p. 1226.

[b] See *supra*, p. 92.

Possession or transport of salt without permit unlawful.

37. Within the limits aforesaid it shall not be lawful to possess or transport salt exceeding forty sers in quantity unless the same shall be in transit under cover of a permit or order granted under sections 27 and 28 of this Act, or shall be covered by a special permit authorizing its retention for private consumption within the said limits.

Special permits by whom granted.

Such special permits shall be granted by the Collector of Salt-revenue, his deputies and assistants, to such persons as they shall deem fit.

Salt exceeding 40 sers, not covered by permit and found in unlicensed building, deemed contraband.

38. All salt exceeding forty sers in quantity, not being in transit under cover of a permit or order granted under sections 27 and 28 of this Act, or covered by a special permit granted under the preceding section, found within such limits as aforesaid in any building, enclosure or premises which shall not have been duly licensed under the section last preceding shall be held to be contraband.

PART V.—General Provisions.

Purposes for which rules may be made.

39. *Clause 1.*—The Governor in Council may from time to time make rules, not being repugnant to the provisions of this or any other Act relating to the salt-revenue, for the following purposes, namely:—

1. for regulating the manufacture, deposit and storage of salt at any salt-work:

2. for regulating the deposit and storage of salt in any building or premises used for the deposit or storage of salt on which excise-duty has not been paid:

3. for regulating the removal of salt from any salt-work and from any building or premises used for the deposit or storage of salt on which excise duty has not been paid:

4. for regulating the routes by which salt removed from any salt-work shall be taken to a preventive station:

5. for regulating the routes by which salt-manufacturers and other persons shall approach, enter or leave any salt-work, and the hours during which only it shall be lawful for any person to remain within the limits of any salt-work:

6. for regulating the import and export of salt by sea and land:

7. for regulating and enforcing the attendance and labour of any person who has contracted or agreed to manufacture salt at any salt-work under the immediate management and control of Government:

8. for the conservancy of any salt-work.

Clause 2.—The Governor in Council may from time to time fix the penalties for breaches of the rules framed under the preceding clause.

Power to require sifted and refuse-salt

40. The Collector of Salt-revenue may at his discretion call upon the licensee of any salt-work to store in heaps any sifted or refuse-salt which may

be laying on such work, or, at the option of the licensee, to destroy the same, and if such licensee shall fail either to store in heaps or to destroy any such salt within ten days from the receipt of the order so to do, the Collector may cause such salt to be destroyed, and may recover the costs thereof from the licensee of the salt-work in manner prescribed for the realization of revenue in chapter III of Regulation XVII of 1827,* or any other law in force for the time being. to be stored in heaps or destroyed.

The Collector of Salt-revenue shall have authority to determine whether any salt is sifted or refuse for the purposes of this Act.

41. On any heap of salt being opened and a part thereof removed, it shall be lawful for the officer in charge of the salt-work to require the licensee of the salt-work, by written notice, to remove the remaining portion within three days of the date of such notice, or to re-heap and secure it in such manner as the said officer may direct, failing which it shall be lawful for the said officer to offer the said salt for sale, and to dispose of it if the price bid is equal to the excise-duty leviable thereon, and if the price offered be less than the excise-duty leviable thereon, it shall be lawful for the said officer to cause the salt to be destroyed, and to recover the cost thereof in manner prescribed by the preceding section. Power to require remainder of opened heaps of salt to be removed.

42. Whenever any salt-work shall be suppressed under any of the provisions of this Act, and whenever a license to manufacture salt at any salt-work shall be withheld, suspended or withdrawn, under any of the provisions of this Act, it shall be lawful for the Collector of Salt-revenue to flood such salt-work with water or to take such other measures with respect to it as he may consider necessary for the prevention of the manufacture or spontaneous production of salt therein. Power to destroy suppressed and unlicensed salt-works.

43. Salt in store at any salt-work which may be suppressed in the manner hereinbefore provided, or at any salt-work a license for the manufacture of salt at which may be withheld, suspended or withdrawn, shall be removed within six months from the date of such suppression, or of the withholding, suspension or withdrawal of such license, for which purpose only the license shall continue in force, and it shall be lawful for the Collector of Salt-revenue to cause any salt which may remain in store at any such salt-work after the expiry of such period of six months to be put up for sale and sold if the price offered be equal to the excise-duty leviable thereon, and if the price bid be less than the excise-duty leviable thereon, it shall be lawful for the said officer to cause the salt to be destroyed. Salt to be removed from suppressed and unlicensed salt-works. Disposal of salt not removed.

44. It shall be lawful for any officer appointed under this Act of not lower Power to

* Repealed by Bombay Act No. V of 1879.

require licensees to protect salt and to repair works.

rank than a sar-kárkún to require by written order the licensee of any salt-work to protect in a manner which the said officer shall consider sufficient, by thatch or in any other mode customary in the district in which such salt-work may be situated, any salt upon any embankment, platform or place used for the storage of salt within the limits of such salt-work, or to construct or repair to the satisfaction of the said officer, any embankment, platform or place used for the storage of salt within such salt-work, and if the said licensee shall fail to comply within fifteen days of the receipt of such order with the requirements therein stated, the officer who issued the order shall proceed to execute the works mentioned therein, and shall recover the costs thereof from the said licensee in the manner prescribed for the realization of revenue in chapter III of Regulation XVII of 1827,[a] or any other law in force for the time being.

Licensees to repair premises used for storage of salt when required

45. It shall be lawful for any officer appointed under this Act of not lower rank than a sar-kárkún to require by written order the licensee of any salt-work to repair to his, the said officer's, satisfaction any "kothár," "gola," building or premises used for the storage of salt manufactured at such work on which excise-duty shall not have been paid, and if such licensee shall fail within twenty days of the receipt of such order to fulfil the requirements stated therein, the officer who issued the order shall proceed to execute the work mentioned in the order, and shall recover the costs thereof from the said licensee in the manner prescribed for the realization of revenue in chapter III of Regulation XVII of 1827, or any other law in force for the time being.

Service of notices.

46. Whenever for any purpose of this Act it is required that a written notice shall be served on any person, such notice shall be deemed to be served on the date on which it shall be delivered to such person, or affixed to the door of his last known place of residence, or posted in a conspicuous place in any part of the salt-work to which it has reference.

Possessor of salt or of vessel, &c., in which salt is, or is suspected to be, bound to weigh and unload on demand by officer.

47. Whenever for any of the purposes of this Act, or of any rule made or to be made in pursuance thereof, it shall be lawful for any officer appointed under this Act, or for any Revenue, Customs or Police-officer, to weigh or examine any salt, or to examine any vessel, carriage, package or goods in which salt is, or is suspected to be, it shall be the duty of the person in whose immediate possession or control such salt, vessel, carriage, package or goods may be to weigh such salt, and to unload, open or unpack such vessel, carriage, package or goods without delay and in the manner required by such officer, and whenever such person shall omit or delay to weigh such salt, or to unload,

[a] Repealed by Bombay Act No. V of 1879.

open or unpack such vessel, carriage, package or goods in the manner in which he is required to weigh, unload, open or unpack them by the officer aforesaid, it shall be lawful for the officer aforesaid to cause the salt to be weighed, or the vessel, carriage, package or goods to be unloaded, opened or unpacked.

PART VI.—Penalties.

Confiscation of contraband salt, &c.

48. All contraband salt, and all vessels, animals and conveyances used or intended to be used in transporting it, and all goods, packages and coverings in or among which it may be placed, and all materials and implements used in manufacturing salt without a license, shall be liable to confiscation, but may be redeemed on payment of such fine as the officer adjudging confiscation may think reasonable.

Penalty for manufacturing salt without license.

49. Whoever shall manufacture salt without a license, or beyond the limits of his license, or in violation of any of the conditions specified therein, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term not exceeding six months, or with fine which may extend to rupees 1,000, or with both.

Penalty for preparing or using incorrect application for permit.

50. Whoever signs or prepares an application for a permit to remove salt which he knows or has reason to believe to be incorrect, or who uses an incorrect application for a permit to remove salt, knowing or having reason to believe it to be incorrect, shall be liable to fine which may extend to rupees 200, or in default to simple imprisonment which may extend to one month.

Penalty for removing contraband salt.

51. Whoever shall be concerned in passing, removing or transporting contraband salt shall be punished with imprisonment of either description, as defined in the Indian Penal Code, which may extend to six months, or with fine which may extend to rupees 500, or with both.

Penalty for accepting or retaining contraband salt.

52. Whoever shall accept or retain salt, having reason to believe the same to be contraband, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term not exceeding six months, or with fine which may extend to rupees 500, or with both.

Penalty for breaches of Act not specially provided for.

53. Whoever shall be guilty of a breach of any of the provisions of this Act, or of any license, permit or rule made or issued in pursuance thereof, for infringements of which special penalties shall not have been prescribed, shall be liable to fine not exceeding rupees 200, or in default to imprisonment of either description which may extend to one month.

Penalty on public servant guilty of breach of Act.

54. Whoever, being a public servant appointed under this Act or employed in the Revenue, Customs or Police-Departments, shall be guilty of a breach of any of the provisions of this Act, or of any rule made in pursuance thereof, shall be punished with imprisonment of either description, as defined in the

Indian Penal Code, for a term not exceeding two years, or with fine, or with both.

Penalty for vexatious use of powers by public servant.

55. Whoever, being a public servant, makes use of any of the powers conferred upon him by this Act vexatiously with intent to cause annoyance or injury to any person, shall be punished with imprisonment of either description, as defined in the Indian Penal Code, for a term not exceeding two years, or with fine, or with both.

Offences by whom punishable.

56. Offences punishable under sections 54 and 55 of this Act shall be cognizable by any Magistrate exercising powers not less than those of a first class Magistrate.

All other offences punishable under this Act shall be cognizable by any Magistrate.

Offences cognizable by officer to whom power is specially delegated.

57. All offences against this Act, or against any rule made in pursuance thereof, the penalties prescribed for which are limited to fine or imprisonment in default, shall be cognizable by any officer appointed under this Act to whom the Governor in Council may specially delegate power to take cognizance thereof; provided that any officer to whom such power may be delegated shall not award a sentence of fine exceeding rupees 500.

How payment of penalty enforced.

58. When a penalty is adjudged against any person under this Act by any officers specially empowered under the preceding section, it shall be lawful for such officer, if the penalty be not paid, to levy the same by sale of any property of the said person which may be in his charge or control, or in the charge or control of any other officer appointed under this Act.

When an officer empowered as aforesaid who has adjudged a penalty against any person under this Act shall fail to realize the unpaid amount of such penalty from the property of such person, it shall be lawful for such officer to notify in writing to any Magistrate within whose jurisdiction such person, or any property belonging to such person, shall be, the name and residence of the said person and the amount of penalty unrecovered; and such Magistrate shall thereupon proceed to enforce payment of the said amount in like manner as if the penalty had been adjudged by himself.

Cases of liability to confiscation to be heard by Collector of Salt-revenue or special officer.

59. Any case in which under this Act any salt, vessel, animal, conveyance, goods, covering, package, implement or material is liable to confiscation, may be inquired into and determined by the Collector of Salt-revenue, or other officer to whom power to adjudicate and determine any such cases may be delegated by the Governor in Council.

Power to take evidence on oath.

60. It shall be lawful for the officers conducting an enquiry under section 17 of this Act to take evidence on oath or affirmation, and in sections 193 and 228 of the Indian Penal Code the words "judicial proceeding" shall be taken to include any proceeding under this Act.

Disposal of fines and proceeds of confiscations.

61. All fines levied, and the proceeds of all confiscations adjudged, under this Act, shall be at the disposal of the Governor in Council, and may be applied for the reward of informers, and of persons through whose aid or instrumentality any offender against the provisions of this Act or against any rule made in pursuance thereof shall have been arrested, or any seizure of contraband salt shall have been made, and of persons who shall have done any act of gallantry or merit in the attempt to arrest offenders or in the performance of any other duty under this Act.

Provisions as to suits.

62. No suit or other proceedings shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended suit or other proceedings, and of the cause thereof, nor after tender of sufficient amends, nor after the expiration of six months from the accrual of the cause of suit or other proceedings.

Defence against legal proceedings.

63. Where any legal proceedings are taken against any person for anything done, or intended to be done, under the provisions of this Act, it shall be lawful for the defendant to plead that the act complained of was done in good faith under the order of his superior officer, and upon establishing such plea the defendant shall be entitled to a decree in his favour, although the superior officer had no authority to make such order;

provided always, that nothing in this section shall affect any remedy which the party injured may have against the superior officer who gave such order;

provided also that this section shall not apply where a suit is brought against a Collector for acts done under the orders of the Government.

APPENDIX A

(Form of Application referred to in section 26)

Dated at

To

THE OFFICER APPOINTED TO COLLECT THE SALT-DUTY AT

Application is hereby made by the undersigned for a permit for the removal of Indian maunds of salt, and duty to the amount of rupees is tendered herewith Details relating to the proposed removal are correctly stated in the form below —

Name of applicant and exporter	Residence of applicant and exporter	Quantity of salt intended to be removed Mds Srs	Name of salt-work and of suza from which salt is to be removed	Name of the licensee of the salt work from which salt is to be removed and cost price of the salt	Place to which the salt is to be exported.	Mode of conveyance—(if by boat, name of boat and Tándel, if by cart or beasts of burden state No of carts or No of animals)	Route by which the salt is to be taken to its destination	Whether the salt is required for local consumption, or for subsequent transport elsewhere, if for the latter, the place or district for the consumption of which it is destined	Whether the removal is on applicant's own account, or for another if for another person, his name and residence

Date of receipt.
Amount of duty paid.
No of receipt-order granted
Date of receipt-order and time when granted.
(*Signature*)
Sar-Kárkún.

(*Signature of Applicant and Exporter*)

I certify the correctness of the entries in columns 3, 4 and 6

(*Signature of the licensee of the salt-work*)

Signed in my presence

(*Signature*)

Sar-Karkún.

APPENDIX B.

(Form of Receipt and Order referred to in section 27.)

Talúqa Zila

Name of exporter ... ...
Residence of exporter ... ...
No. and date of application ... ...
Quantity of salt for which duty has been paid ... ...
Amount of duty paid, Rs. As. Ps. ... ...
Salt-work from which the salt is to be removed ... ...
Name of suza ... ...
Name of licensee of salt-work ... ...
Destination of salt ... ...
Route by which the salt is to be conveyed ... ...
Mode of conveyance,—(if by boat, the name of boat and of Tándel; if by carts or animals, their number) ... ...
Whether for local consumption or for subsequent transport; if for the latter, its ultimate destination ... ...
Name of suzádár, and other persons appointed to superintend the weighment .. ..
Preventive station at which the salt is to be examined ...
Route by which the salt is to be taken to the preventive station ... ...
Period within which the said salt shall be removed from the salt-work .. ..
Period within which the salt shall be taken to the preventive station ... ...
Period within which the salt shall be taken to its destination ... ...

Date

(*Signature*)

Sar-Kárkún.

No. dated

To (*enter name of suzádár and other persons appointed to superintend the weighment*).

A. B. Exporter, resident of and *C. D.* licensee of salt-work, situated in suza in taluqa, are hereby permitted to remove from the said salt-work Indian maunds of salt, for which duty to the amount of Rs. As Ps. has been paid. You are hereby directed to allow the aforesaid quantity of salt to be taken from the said work by the said *A. B.* and *C. D.* before the sunset of and removed by (*state mode of conveyance*) to preventive station by route.

(*Signature*)

Sar-Kárkún.

Removed and received by the said *A. B* and *C. D.* Indian maunds of salt from salt-work this day the at M.
The scales and weights by which the said salt was weighed were tested by us and found to be correct.

(*Signature*) (*Signature*)
Licensee of salt-work. Exporter.

(*Signature*)
Date Suzádár.

No. dated at

Salt-duty to the amount of Rs. As. Ps. having been received by me, *A. B.*, resident of and *C. D.* licensee of salt-work, situated in suza in taluqa, are hereby authorized to remove Indian maunds of salt from the said salt-work, and to convey the same to preventive station by route, within a period of

A. B. is further authorized to convey the said salt after it shall have been passed by the officer in charge of preventive station by route, on (*state mode of conveyance*) to within a period of

(*Signature*)

Sar-Kárkún.

Examined by me at preventive station on at M.

Passed Indian maunds salt, carried on

Extra duty on the excess of Indian maunds amounting to Rs. has been received by me.

(*Signature*)

Officer in charge of preventive station.

ACT No. I OF 1874.

Received the Governor's assent on the 11th of April, 1874, and the Governor General's assent on the 6th of May, 1874, and published by the Governor on the 15th of May, 1874.

An Act to authorize the making and to regulate the working of Street-tramways in Bombay.

Preamble.

WHEREAS the Corporation of the Justices of the Peace for the city of Bombay, by an agreement dated the twelfth day of March, 1873, for the considerations therein expressed granted to William French Stearns and George Alvah Kittredge and their assigns the right to construct and maintain and to use a tramway or tramways in Bombay upon the terms and in the manner mentioned in the said agreement, a copy whereof is set forth in the schedule to this Act, and the said agreement had on the third day of March, 1873, received the sanction of the Governor of Bombay in Council; and whereas the said W. F. Stearns and G. A. Kittredge are desirous of being empowered to lay down and maintain the several street-tramways in the said agreement and in this Act particularly described, and also such other tramways between such other places in Bombay, and by such other routes, as may hereafter be approved; and whereas the objects of this Act cannot be attained without the authority of the legislature; It is hereby enacted as follows:—

Short title.

1. This Act may be cited for all purposes as "The Bombay Tramways Act, 1874."

Interpretation-clause.

2. The following words and expressions in this Act shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction:—

the expression "the said Corporation" shall mean the municipal Corporation of the city of Bombay constituted by Act III of 1872[a] or any other Act passed by the Governor of Bombay in Council:

the expression "the Municipal Commissioner" shall mean the Municipal Commissioner for the city of Bombay appointed under the provisions of the said Act III of 1872 or any subsequent municipal Act, or any person officiating in the said office:

the expression the "tramways" or the "undertaking" shall mean the tramways and works and undertaking by this Act authorized, or any part thereof:

the word "road" shall mean the way of any street, road, thoroughfare, passage or place along or across which any tramway authorized by this Act is

[a] See *supra*, p 320.

intended to be laid, and includes the surface-pavement, soil and sub-soil of a street and any bridge forming part of a street.

Routes on which tramways to be maintained.

3. Subject to the provisions of this Act, and subject to the said agreement of the twelfth of March, 1873, so far as the same is not inconsistent with anything in this Act, the said W. F. Stearns and G. A. Kittredge, their executors, administrators and assigns (hereinafter called the said grantees), may make and maintain in the city of Bombay a tramway or tramways with single or double tracks and with all necessary sidings, turn-outs, connections and tracks to and from their stables on the following routes :—

From a point near the Grant Buildings, Kolábá, by Hornby Row and the Cruickshank Road to the Money School, a double track : Provided that this tramway shall not be carried or maintained across the Bombay, Baroda and Central India Railway or any siding which may at any time be constructed from the Cotton Green to the Apollo Bay Reclamation so as to obstruct the said railway or any such siding.

From a point of junction with the above tramway near the junction of Bázár Gate Street and Hornby Row to a point near the Crawford Market, a double track.

From the Money School to a point near Paidhoní Well along the Kalbadávi Road and the Coppersmiths' Bázár, Mombadávi, a single track.

From the Crawford Market along Syyad Abdul Rahmán Street to a point of junction with the foregoing tramway near the Paidhoní Well, a single track : Provided, however, that in case, after the expiration of one year from the date when this track shall have been constructed, it shall be considered by Government to be necessary or expedient that the same shall be removed, the grantees shall immediately after they shall have received an order from Government in that behalf at their own expense remove the said track and all their plant and materials from the said street, and restore and make good the road and pavement and remove all rubbish occasioned by the said track or the removal thereof, and the said grantees shall not be entitled to or claim any compensation in respect of such removal.

And may also make and maintain a tramway along the following route when approved by the Municipal Commissioner :

From the said point near Paidhoní Well along the Parel Road to a point near the Baikala Railway-station, a single or double track as may be approved of by the Municipal Commissioner for the said city and sanctioned by Government.

And may also make and maintain tramways between such other places in the said city and by such other routes as may hereafter be approved of by the Municipal Commissioner for the said city and sanctioned by Government.

Notice in Government Gazette of new tramway.

4. In the event of any other tramway or tramways on other routes in the said city being from time to time approved by the said Commissioner and sanctioned by Government and undertaken by the said grantees, notice thereof specifying the routes so approved shall thereupon be given in the *Bombay Government Gazette*, under the signature of a Secretary to Government, and upon the publication of any such notice all the provisions of this Act shall apply to the tramway or tramways in such notice specified, and all works and things connected with or incidental thereto as if the same route or routes had been particularly described in section 3 of this Act.

Form in which tramways to be maintained.

5. Every tramway shall be constructed and maintained in such form and manner and upon such gradient and with such gauge and rails as the said Municipal Commissioner shall approve, and shall be laid and maintained in such manner that the uppermost surface of the rail shall be on a level with the immediately adjacent surface of the road, and shall not be opened for public traffic until the same has been inspected and certified to be fit for such traffic by the Municipal Commissioner.

Construction of carriages.

6. The carriages intended to run upon the said rails shall be furnished with a break which can be worked at each end of the carriage, and shall be of a construction approved by the Municipal Commissioner.

No carriage used on any tramway authorized under this Act shall extend beyond the outer edge of the wheels of such carriage more than fourteen inches on each side.

Grantees may use tramway-carriages with flange-wheels

7. The grantees may use on their tramways carriages with flange-wheels, or wheels suitable only to run on a grooved rail, and, subject to the provisions of this Act, the grantees shall have the exclusive use of their tramways for carriages with flange-wheels or other wheels suitable only to run on a grooved rail.

Reservation of right of public to use roads.

8. Nothing in this Act or in any bye-law made under this Act shall take away or abridge the right of the public to pass along or across every or any part of any road along or across which any tramway is laid, whether on or off the tramway, with carriages not having flange-wheels or wheels suitable only to run on a grooved rail.

Carriages to be worked with animal-power.

9. The carriages of the grantees on the tracks of the said tramways shall, unless with the consent of the said Municipal Commissioner and the sanction of Government, be worked with horse-power or other animal-power only, and the maximum rate of speed on the said tramway shall be eight miles per hour.

Power to break up streets, &c

10. The grantees from time to time, for the purpose of making, forming, laying down, maintaining and renewing any tramway duly authorized, or any

part or parts thereof respectively, may open and break up any road, subject to the following regulations :—

1. They shall give to the Municipal Commissioner, or to the executive engineer of the said Corporation, notice of their intention, specifying the time at which they will begin to do so, and the portion of road proposed to be opened or broken up, such notice to be given seven days at least before the commencement of the work, except in cases of emergency arising from defects in any of the rails or other work, and then so soon as is possible after the beginning of the work or the necessity for the same shall have arisen :

2. They shall not open or break up, or alter, the level of any road, except under the superintendence and to the reasonable satisfaction of the Municipal Commissioner or executive engineer, unless the said Municipal Commissioner or executive engineer refuses or neglects to give such superintendence at the time specified in the notice, or discontinues the same during the work :

3. They shall not, without the consent of the Municipal Commissioner, open or break up at any one time a greater length than one hundred yards of any road which does not exceed a quarter of a mile in length ; and in the case of any road exceeding a quarter of a mile in length the grantees shall leave an interval of at least a quarter of a mile between any two places at which they may open or break up the road, and they shall not open or break up at any such place a greater length than one hundred yards.

Completion works and reinstatement of road.

11. When the grantees have opened or broken up any portion of any road, they shall be under the following further obligations, namely :—

1. They shall, with all convenient speed, and in all cases within four weeks at the most (unless the Municipal Commissioner otherwise consents in writing), complete the work on account of which they opened or broke up the same, and (subject to the formation, maintenance or renewal of the tramway) fill in the ground, and make good the surface, and to the satisfaction of the Municipal Commissioner restore the portion of the road to as good condition as that in which it was before it was opened or broken up, and clear away all surplus paving or metalling material or rubbish occasioned thereby :

2. They shall in the meantime cause the place where the road is opened or broken up to be fenced and watched, and to be properly lighted at night.

Repair of part of road where tramway laid.

12. The grantees shall, at their own expense, at all times maintain and keep in good condition and repair, in such manner as the Municipal Commissioner shall direct, and to his satisfaction, so much of any road whereon any tramway belonging to them is laid as lies between the rails of the tramway and (where two tramways are laid by the grantees in any road at a distance of not more than four feet from each other) the portion of the road between the

tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway.

And in consideration of such maintenance of parts of roads and of the yearly rent in the said agreement mentioned to be paid by the grantees, the horses and carriages and other vehicles of the said grantees shall be exempt from municipal taxation.

Penalty for failure by grantees to comply with provisions of Act.

13. If the grantees aforesaid fail to comply in any respect with the provisions of sections 5, 6, 9, 10, 11 and 12 of this Act, they shall for every such offence (without prejudice to the enforcement of specific performance of the requirements of this Act or to any other remedy against them), upon complaint of the Municipal Commissioner, be liable to a penalty not exceeding two hundred rupees, and to a further penalty not exceeding fifty rupees for each day during which any such failure continues after the first day on which such penalty is incurred.

Work may be executed by Municipal Commissioner at cost of grantees if they delay or omit to perform it.

14. If any unnecessary delay or omission shall take place on the part of the said grantees in complying with any order which may be made on them by Government for the removal of the said track authorized to be constructed along Syyad Abdul Rahmán Street as hereinbefore mentioned, or of any other track the construction of which may have been sanctioned, subject to similar provisions, or otherwise in acting in accordance with the proviso hereinbefore contained regarding that track, or in the performance of any of the works specified in sections 10 and 11 of this Act, or in filling in the ground or reinstating and making good the road or pavement so opened or broken up, or in carrying away the rubbish occasioned thereby, or if they neglect to cause the place where such road has been broken up to be guarded and lighted, or neglect to maintain or keep in repair the portion of the roads which shall be occupied by their tracks, the Municipal Commissioner may cause the work so delayed or omitted to be executed at the expense of the said grantees, and the certificate in writing of the said Municipal Commissioner as to the expense so incurred shall be conclusive, and the said grantees shall not be at liberty to dispute the same in any Court of law.

Reservation of power over roads.

15. Nothing in this Act shall be construed to prevent the said Municipal Commissioner or the Corporation, or the Bombay Gas Company, Limited, in the exercise of the powers conferred upon them under Act V of 1863 of the Governor of Bombay in Council, from taking up any of the roads traversed by the said tramway for the purposes for which he or they may now lawfully take up the same: Provided always that

(1) they shall cause as little detriment or inconvenience to the grantees as circumstances admit:

(2) before they commence any work whereby the traffic on the tramway

will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the grantees notice of their intention to commence such work, specifying the time at which they will begin to do so, such notice to be given eighteen hours at least before the commencement of the work:

(3) they shall not be liable to pay to the grantees any compensation for injury done to the tramway by the execution of such work, or for loss of traffic occasioned thereby, or for the reasonable exercise of the powers so vested in them as aforesaid.

Grantees may demand fees or charges.

16. The grantees may demand and take for every passenger travelling upon any of the tramways, or any part or parts thereof respectively, or for the carriage of goods by such tramways, such fares or charges as they may fix from time to time:

Provided that the rates of fares, on at least one-half of the carriages available for passengers which shall daily run on the said tracks, shall for any distance not exceeding three miles not exceed three annas, and for any greater distance shall be at the rate of three annas for every three miles or any portion thereof.

Printed list of fares, &c., to be placed in carriages.

17. A printed list in English, Maráthí and Guzaráthí of all the fares and charges authorized by this Act to be taken, and a printed copy in the same languages of all bye-laws in force as hereinafter mentioned, shall be exhibited in a conspicuous place inside each of the carriages used by the grantees upon any of their tramways.

Fares to whom to be paid.

18. The fares and charges by this Act authorized shall be paid to such persons, at such places upon or near to the tramways, and in such manner and under such regulations, as the grantees shall, by notice to be annexed to the list of fares, appoint.

Penalty for obstructing grantees in exercise of power.

19. If any person wilfully obstructs any person acting under the authority of the grantees in the lawful exercise of their powers in setting out or making, laying down, repairing or renewing a tramway, or injures or destroys any mark made for the purpose of setting out the line of the tramway, he shall for every offence be liable to a penalty not exceeding fifty rupees, and shall also be liable to pay such damages as may be awarded in respect of such injury by any competent Court.

Penalty for interfering with tramways.

20. If any person without lawful excuse (the proof whereof shall lie on him) wilfully does any of the following things, namely:—

interferes with, removes or alters any part of a tramway of the grantees or of the works connected therewith:

does or causes to be done anything in such a manner as to obstruct any carriage using the tramways: or

knowingly aids or assists in the doing of such thing:

he shall for every such offence be liable (in addition to any proceedings by way of criminal charge or otherwise to which he may be subject) to a penalty not exceeding one hundred rupees.

Penalty for avoiding payment of proper fare

21. If any person travelling or having travelled in any carriage of the grantees avoids or attempts to avoid payment of his fare, or

if any person having paid his fare for a certain distance knowingly and wilfully proceeds in any such carriage beyond such distance and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof, or

if any person knowingly and wilfully refuses or neglects, on arriving at the point to which he has paid his fare, to quit such carriage,

every such person shall for every such offence be liable to a penalty not exceeding ten rupees.

Servant of grantees may arrest persons avoiding payment

22. It shall be lawful for any servant of the grantees, and all persons called in by him for his assistance, to arrest and take to the nearest Police-station any person who shall be discovered either in or after committing or attempting to commit any such offence as in the next preceding section mentioned, and whose name and residence is refused by him and is unknown to such servant or person, and the Police-officer in charge of the said Police-station, on receiving a complaint that an offence under this Act has been committed, shall adopt such legal measures as may be necessary to cause the said person to be taken before a Magistrate with the least possible delay.

Carriage of dangerous or offensive goods.

23. No person shall be entitled to carry or to require to be carried on any tramway any goods which may be of a dangerous or offensive nature, and if any person send by any tramway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book-keeper or other servant of the grantees with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding rupees fifty for every such offence, and it shall be lawful for the grantees to refuse to take any parcel that they may suspect to contain goods of a dangerous or offensive nature, or require the same to be opened to ascertain the fact.

Bye-laws by Municipal Commissioner.

24. The Municipal Commissioner may, from time to time, make regulations as to the following matters:—

the rate of speed to be observed in travelling upon the tramway:

the distances at which carriages using the tramway shall be allowed to follow one after the other:

the stopping of carriages using the tramway:

the hours during which such carriages carrying goods shall run on the tramway:

the traffic on the road in which the tramway is laid.

Grantees may make certain regulations.

The grantees may from time to time make regulations—

for preventing the commission of any nuisance in or upon any carriage, or in or against any premises belonging to them :

for regulating the travelling in or upon any carriage belonging to them.

And for better enforcing the observance of all or any of such regulations, it shall be lawful for such Municipal Commissioner and grantees respectively, subject to confirmation thereof by the Governor of Bombay in Council to be signified under the hand of a Secretary to the said Governor in Council, to make bye-laws for all or any of the aforesaid purposes, and from time to time repeal or alter such bye-laws, and make new bye-laws, provided that such bye-laws be not repugnant to the provisions of this Act or of any law for the time being in force in the city of Bombay.

Notice of the making of any bye-law under the provisions of this Act shall be published by the Municipal Commissioner in the *Bombay Government Gazette*.

Penalty for breach of bye-laws.

25. Any person offending against any bye-law made under the provisions of the next preceding section shall forfeit for every offence any sum not exceeding twenty-five rupees, to be imposed in such bye-laws as a penalty for such offence.

Penalties how recovered.

26. All fares, penalties, forfeitures and charges under this Act or under any bye-law made in pursuance of this Act may be recovered and enforced before a Police Magistrate of Bombay by a summary proceeding; and in default of payment of such fare, penalty, forfeiture or charge, the same may be levied under the warrant of such Magistrate by distress and sale of the goods of such offender, with all such powers for the issuing of such warrant and upon the return thereof as are exercised by a Magistrate of Police under Act XIII of 1856 or any other Act for regulating the Police of the town of Bombay in force for the time being.

Responsibility of grantees for damages.

27. The grantees shall be answerable for all accidents, damages and injuries happening through their act or default, or through the act or default of any person in their employment, by reason or in consequence of any of their works or carriages, and shall save harmless the Municipal Corporation of the city of Bombay and their officers and servants from all damages and costs in respect of such accidents, damages and injuries.

Power for Municipal Commissioner and Police to regulate traffic on roads.

28. Nothing in this Act shall limit the powers of the Municipal Commissioner or the Police to regulate the passage of any traffic along or across any road along or across which any tramways are laid down, and such Municipal Commissioner or Police may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the grantees as to the traffic of other persons.

Municipal Commissioner may remove tramway if working discontinued for six months.

29. If at any time after the opening of any tramway for traffic the grantees shall discontinue the working of such tramway or any part thereof for the space of six calendar months (such discontinuance not being occasioned by circumstances beyond the control of the grantees, for which purpose the want of sufficient funds shall not be considered a circumstance beyond their control), it shall be lawful for the said Municipal Commissioner without any previous notice to the grantees to remove the tramway or any part of the tramway so discontinued, and the grantees shall pay to the said Corporation the cost of such removal and the making good of the streets, roads or bridges consequent on such removal, and the certificate of the said Municipal Commissioner as to such cost shall be conclusive evidence as between the said Corporation and the said grantees.

Municipal Corporation have right of purchasing tramways after 21 years.

30. The said Municipal Corporation of the city of Bombay shall have the right of purchasing the said tramways, with the plant, stores, rolling-stock and every thing connected therewith after the expiration of twenty-one years from the twelfth day of March, 1873, upon declaring its intention so to do within six months after the expiration of the said twenty-one years, and shall have a renewed right of purchase at the end of every seven years after the expiration of the said twenty-one years upon similar notice being given;

the amount to be paid in the event of such purchase shall be the actual *bonâ fide* value (exclusive of any compensation for good-will, premium or compulsory sale or other consideration whatsoever) of the tramways, and of the works and materials connected therewith and of the lands and buildings and all other the property of the grantees, such value in case the parties do not agree to be decided by arbitration as provided by the said agreement of the twelfth day of March, 1873; and as compensation for the good-will, premium or compulsory sale and other consideration, the grantees shall be paid an amount equal to twenty-one years' purchase, calculated on the average profits of the previous three years next preceding the purchase, four per cent. per annum on the *bonâ fide* value mentioned above being first deducted from such profits.

Grantees may sell rights and powers to others.

31. At any time the grantees may sell the undertaking to any person, persons, Corporation or Company (subject nevertheless to the provisions of the said agreement or such of them as shall be then subsisting) and when any such sale has been made, all the rights, powers, authorities, obligations and liabilities of the grantees under the said agreement and this Act shall be transferred to, vested in and may be exercised by, and shall attach to, the person, persons, Corporation or Company to whom the same has been sold, in like manner as if such person, persons, Corporation or Company had been authorized to construct the tramways of the grantees then already constructed and thereafter to be constructed instead of the grantees.

SCHEDULE.

ARTICLES OF AGREEMENT made this Twelfth day of March, One Thousand Eight Hundred and Seventy-three, between the JUSTICES OF THE PEACE FOR THE CITY OF BOMBAY, incorporated under Act II of 1865 of the Legislative Council of Bombay, hereinafter called the said Justices, of the one part; and WILLIAM FRENCH STEARNS and GEORGE ALVAH KITTREDGE, hereinafter called the grantees, of the other part.

Whereas the said Justices have agreed to grant to the said WILLIAM FRENCH STEARNS and GEORGE ALVAH KITTREDGE the right to construct, maintain, and use a tramway in Bombay upon the terms and conditions hereinafter contained: NOW THESE PRESENTS WITNESS that, in consideration of the covenants and agreements hereinafter contained, and on the part of the said Justices to be performed, the said grantees, for themselves, their heirs, executors and administrators, do, and each of them for himself, his heirs, executors and administrators doth, covenant with the said Justices and their successors, so far as the covenants and agreements hereinafter contained are, or ought to be, performed by the said grantees and their assigns; and the said Justices, for and in consideration of the covenants and agreements hereinafter contained, and on the part of the said grantees and their assigns to be performed, do hereby covenant with the said grantees and their assigns, so far as the covenants and agreements hereinafter contained are, or ought to be, performed by the said Justices and their successors, in manner following; THAT IS TO SAY:—

1. The said Justices grant to the said WILLIAM FRENCH STEARNS and GEORGE ALVAH KITTREDGE, and their assigns, the right to construct, maintain and use a tramway or tramways, with single or double tracks, and with all necessary sidings, turn-outs, connections and tracks, to and from the stables of the grantees or their assigns, on the following routes, and between such other places, and by such other routes, as may be hereafter approved of by the Municipal Commissioner for the city of Bombay.

The tramways referred to, and now authorized for immediate construction, are:—

From a point near the Grant Buildings, Kolába, to the Money School, A DOUBLE TRACK.

PROVIDED that this tramway will not be carried across the Bombay Baroda and Central Indian Railway, or any sidings which it may now be contemplated to construct from the Cotton Green to the Apollo Bay Reclamation, without the express permission of Government.

From a point of junction with the above tramway near the junction of

Church-gate Street and Rampart Row to a point near the Crawford Market, A DOUBLE TRACK.

From the Money School to a point near Paidhoni Well, along the Kalbadávi Road and the Coppersmiths' Bázár, Mombadavie, A SINGLE TRACK.

From the Crawford Market along Sayad Abdul Rahman Street to a point of junction with the foregoing tramway near the Pydhonee Well, A SINGLE TRACK; Provided, however, that, in case after the expiration of one year from the date when this track shall have been constructed, it shall be considered by Government to be necessary or expedient that the same shall be removed, the grantees shall, immediately after they shall have received an order from Government in that behalf, at their own expense remove the said track, and all their plant and materials, from the said street, and restore and make good the road and pavement, and remove all rubbish occasioned by the said track or the removal thereof, and the said grantees shall not be entitled to or claim any compensation in respect of such removal.

And also the following when approved by the Municipal Commissioner:—

From the said point near Pydhonee Well along the Parel Road to a point near the Byculla Railway-station.

2. The said tramway shall be constructed and maintained in such form and manner, and upon such gradient and with such gauge, as the Municipal Commissioner may approve; and the cars and carriages intended to run on the said rails shall be such as are approved of by the said Commissioner.

3. The cars and carriages of the grantees or their assigns on the tracks of the said tramway shall, unless with the consent of the said Commissioner, be worked with horse-power, or other animal-power, only; and the said Commissioner shall have power at all times to make such regulations as to the rate of speed and mode of use of the said tracks as the convenience and safety of the public using the streets may require.

4. The said grantees or their assigns shall have power, from time to time, to fix the rates of fares for carrying persons and goods in the cars or carriages to be run on the said tramways, provided that the rates of fares, on at least one-half of the cars or carriages available for passengers which daily run on the said tracks, shall for any distance not over three miles not exceed three annas, and be for any greater distance in the same proportion.

5. The said grantees or their assigns may, for the purpose of constructing and maintaining such tramways, under such superintendence as is hereinafter specified, open and break up the soil and pavement of the several streets and bridges in the town and island of Bombay, and thereon lay sleepers and rails, and from time to time repair, alter or remove the same; and may, for the purposes aforesaid, remove and use all earth and materials in such streets and

bridges, and the said grantees and their assigns may, in and on such streets and bridges do all other acts which they shall from time to time deem necessary for constructing and maintaining street-tramways in the said town and island of Bombay, doing as little damage as may be in the execution of the powers hereby granted, and making compensation for any damage which may be done in the execution of such powers

6 Before the said grantees or their assigns proceed to open or break up any street or bridge other than those referred to in clause 1, they shall obtain the approval in writing of the said Commissioner to the tracks of the said tramway being laid down on the said street or bridge, and shall give to the said Commissioner, or the executive engineer or other municipal officer, notice in writing of their intention to open or break up the same, not less than three clear days before beginning such work, except in cases of emergency arising from defects in any of the rails or other work, and then so soon as is possible after the beginning of the work or the necessity for the same shall have arisen.

7 No such street or bridge shall, except in the cases of emergency aforesaid, be opened or broken up except under the superintendence of the said Commissioner or of his officer, and according to such plans as shall be approved of by him or them Provided always that, if the said Commissioner or his officer fail to attend at the time fixed for the opening of any such street or bridge after having had such notice of the said grantees' or their assigns' intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the said grantees or their assigns may perform the work specified in such notice without the superintendence of such officer

8 When the said grantees or their assigns open or break up the road or pavement of any street or bridge, they shall, with all convenient speed, complete the work for which the same shall be broken up, and fill in the ground and make good the road or pavement so opened or broken up, and carry away the rubbish occasioned thereby, and deposit the same for the use of the Commissioner at such place as the executive engineer of the said municipality shall direct, and shall, at all times whilst any such road or pavement shall be so opened or broken up, cause the same to be guarded, and shall cause a light, sufficient for the warning of passengers, to be set up and maintained against or near such road or pavement where the same shall be open or broken up, every night during which the same shall be continued open or broken up

9 If the said grantees or their assigns open or break up any street or bridge without giving such notice as hereinbefore mentioned, or in a manner different from that which shall have been approved of or determined as aforesaid, except in the cases in which the said grantees or their assigns are hereby

authorized to perform such work without any superintendence or notice; or if the said grantees or their assigns shall make any unnecessary delay in completing any such work, or in filling in the ground, or reinstating and making good, so far as is consistent with the existence of the said tramway, the road or pavement so opened or broken up, or in carrying away the rubbish occasioned thereby; or if they neglect to cause the place where such road or pavement has been broken up to be guarded and lighted—they shall forfeit to the said Justices a sum not exceeding fifty rupees for every such offence, and they shall forfeit an additional sum not exceeding fifty rupees for each day during which any such delay or neglect as aforesaid shall continue after they shall have received notice thereof.

10. The said grantees or their assigns shall maintain and keep in repair such portion of the streets and bridges in the town and island of Bombay as shall be occupied by their tracks, including therein not only the space between the tracks, but eighteen inches on either side thereof, and in consideration of such maintenance of streets and bridges and of the yearly rent hereinafter mentioned to be paid by the grantees, the horses and carriages and other vehicles of the said grantees shall be exempt from municipal taxation.

11. If any unnecessary delay or omission shall take place by the said grantees or their assigns in complying with any order which may be made on them by Government for the removal of the said track proposed to be constructed along Sayad Abdul Rahman Street as hereinbefore mentioned, or otherwise in acting in accordance with the proviso hereinbefore contained regarding that track, or in the performance of any of the works specified in clause 8 of these presents, or in filling in the ground, or reinstating and making good the road or pavement so opened or broken up, or in carrying away the rubbish occasioned thereby; or if they neglect to cause the place, where such road or pavement has been broken up, to be guarded and lighted, or neglect to maintain and keep in repair the portion of the roads or bridge which shall be occupied by their tracks—the said Commissioner may cause the work so delayed or omitted to be executed, and the expense of executing the same shall be repaid to him by the said grantees or their assigns, and the certificate in writing of the Commissioner as to the expense so incurred shall be conclusive, and the said grantees shall not be at liberty to dispute the same.

12. The said grantees or their assigns shall be liable for any loss or injuries that any person may sustain by reason of any defect or want of repair in any of the plant or other property of the said grantees, or of any carelessness, neglect or misconduct of their agents or servants in the management, construction or use of the said tracks or tramways, and in case any recovery

shall be had against the said Commissioner or the said Justices by reason of such defect or other matter aforesaid, the said grantees or their assigns shall be liable to pay to the said Commissioner or the said Justices, as the case may be, any sums thus recovered against him or them, together with all costs and reasonable expenditure incurred by the said Commissioner or the said Justices in the defence of any such suit or suits in which such recovery shall be had.

13. Nothing in this agreement shall be construed to prevent the said Commissioner from taking up any of the public streets or roads traversed by the said tramway for the purposes for which he may now lawfully take up the same.

14. If at any time after the opening of any tramway for traffic the grantees shall discontinue the working of such tramway, or any part thereof, for the space of six calendar months (such discontinuance not being occasioned by circumstances beyond the control of the grantees), it shall be lawful for the Commissioner, without any previous notice to the grantees, to remove the tramway, or part of the tramway, so discontinued, and the grantees shall pay to the Commissioner the cost of such removal and of the making good of the street; and the certificate of the Commissioner as to such cost shall be conclusive.

15. The provisions of this agreement shall remain and be in force for a term not less than twenty-one years from the date thereof. The Corporation shall have the right of purchasing the said tramways, with the plant, stores, rolling-stock, and everything connected therewith, after the expiration of the said twenty-one years, upon declaring its intention so to do within six months after the expiration of the said twenty-one years, and shall have a renewed right of purchase at the end of every seven years after the expiration of the said twenty-one years upon similar notice being given · the amount to be paid in the event of such purchase shall be actual *bonâ fide* value, exclusive of any compensation for good-will, premium, compulsory sale or other consideration whatsoever, of the tramways, and of the work and materials connected therewith, and of the lands and buildings and all other the property of the grantees, such value, in case the parties do not agree, to be decided by arbitration as hereinafter provided; and for the good-will, premium, compulsory sale, and other consideration of the business of the grantees, an amount equal to twenty-one years' purchase, calculated on the average profits of the previous three years, four per cent. per annum on the above value as paid being first deducted from such profits.

16. The provisions hereinbefore contained shall, so far as applicable, apply to all tramways to be constructed by the said grantees or their assigns by any route or routes to be hereafter fixed by the Commissioner or under clause 1 of these presents, and to the works connected with, or incidental to, such

tramways, it being agreed that, in the event of the municipality failing to declare its intention, as above provided, to purchase the property of the said grantees, the terms of this contract shall continue in force.

17. The said grantees or their assigns will, if required by the said Commissioner, before opening and breaking up the soil and pavement of any street or bridge under clause 5 of these presents, deposit with the Bank of Bombay, in the name of the said Commissioner, the sum of rupees 5,000, or, in their option, promissory notes of the Government of India of the nominal value of rupees 5,000, and the same will remain so deposited until the completion by the said grantees or their assigns of the abovementioned lines of tramway herein sanctioned for immediate construction. All interest accruing on the said sum or the said notes shall be credited to the said grantees or their assigns, and, subject as next hereinafter mentioned, be paid to them as the same accrues due. The said Commissioner shall be entitled to deduct all fines recovered by him out of the sum so deposited, or the interest accruing on the said sum or notes, or out of the proceeds of sale of a portion of the said notes, on completion of the said tramways as specified in clause 1 of this agreement.

18. In consideration of the concession herein granted, the said grantees undertake, on behalf of themselves and their assigns, that they will pay to the Municipal Corporation of Bombay a yearly rent of Rs. 3,000 per mile of double track and Rs. 2,000 per mile of single track, payable half-yearly; the date on which such rent on each line of tramways shall begin to accrue shall be the date on which such line of tramways is opened for public traffic.

19. It is agreed that no sidings, turn-outs or tracks necessary to connect the traffic-lines with the stables, carriage-sheds, factories or other property or properties of the grantees, shall be included in the mileage on which rent is to be paid; such sidings, turn-outs and necessary connecting tracks being free of rent.

20. The sleepers, rails, materials, implements and other erections placed and erected by the said grantees on the streets or roads under the powers hereby granted, shall be and remain the property of the said grantees, and the said grantees shall have the exclusive use of their tramway or tramways for carriages with flanged wheels, or other wheels suitable only to run on the prescribed rail.

21. The grantees shall have the exclusive right of laying and using tramways within the limits of the Bombay municipality on the terms herein stated; but in the event of the grantees refusing to lay down any line which the Municipal Commissioner may consider necessary, he shall be at liberty to grant the right of laying and using such line to any other party.

22. Unless the said grantees shall have commenced the work of laying

down the said tramways within twelve months from the date of the execution of these presents, the Municipal Commissioner shall be at liberty to cease and determine this contract, and to enter into arrangements with any other person or persons for the construction of tramways, it being agreed, however, that these presents are subject to the sanction of Government, and that, in the event of their being executed prior to such sanction being given, the said twelve months shall date from the day on which notice of such sanction is given to the said grantees: Provided also that any delay in commencing the work beyond twelve months shall not have been due to any cause beyond the control of the grantees.

23. If any doubt, difference or dispute shall arise between the grantees, their heirs, executors or administrators, and the said Justices or their successors, touching the construction of these presents or anything herein contained, or touching or concerning any other matter or thing relating to these presents, then, and in every such case, such doubt, difference or dispute shall be referred to the arbitration of three indifferent persons, one to be from time to time chosen by the said grantees, and another by the said Justices, within one calendar month after either of them shall have made to the other a requisition to that effect, and the third to be named by the two persons from time to time first chosen; and the decision of such arbitrators if they agree, or of such umpire if they disagree, shall be final; and in case either party shall neglect or refuse to appoint an arbitrator within the specified time, the arbitrator appointed by the other party shall make a final decision alone.

IN WITNESS whereof the said Municipal Commissioner, for and on behalf of the said Justices, has hereunto set his name and caused the seal of the said Justices to be affixed hereunto, and the said WILLIAM FRENCH STEARNS and GEORGE ALVAH KITTREDGE have hereunto set their hands and seal the day and year hereinbefore written.

SPECIFICATION.

RAIL.—To be similar in upper surface section to the sample submitted herewith, being similar to the rail now in general use in London and Liverpool.

GAUGE.—To be 4 feet 8½ inches.

CARRIAGE.—Similar to those in use in England and America, to be furnished with a break which can be worked at both ends of the carriage, capable of stopping the carriage within its own length.

As it has been suggested that some doubt may arise as to the meaning of the latter part of section 15 of the Articles of Agreement between the JUSTICES

OF THE PEACE FOR THE TOWN AND ISLAND OF BOMBAY and Messrs. STEARNS and KITTREDGE, we, the undersigned, append the following illustration of the mode in which that section is to be construed :—

Suppose the *bonâ fide* value fixed by arbitration of the grantees' stock is ... ... Rs. 10,00,000
4 per centum on this sum is ... ... „ 40,000
And suppose that the average annual profits, for three years, of the grantees are ... ... Rs. 1,00,000
Rs. 40,000 being deducted from Rs. 1,00,000=Rs. 60,000—
Rs. 60,000 × 21 years=Rs. 12,60,000.
And the sum to be paid as purchase-money to the grantees will be—
Stock value ..=Rs. 10,00,000
Compensation for good-will= „ 12,60,000

Rs. 22,60,000

(*Signed*) W. G. PEDDER, C.S.,
Municipal Commissioner.

(*Signed*) GEO. A. KITTREDGE,
For self and W. F. Stearns.

ACT No. II OF 1874.

Received the Governor's assent on the 16th of October, 1874, and the Governor General's assent on the 31st of December, 1874, and published by the Governor on the 15th of January, 1875.

An Act for the regulation of Jails in the City and Presidency of Bombay and the enforcement of discipline therein.

Preamble

WHEREAS it has become necessary that the laws relating to jails in the city and Presidency of Bombay should be amended; It is enacted as follows :—

PART I.—PRELIMINARY.

1 —[*Repealed by Act No. XII of 1876.*]

"Inspector-General of Prisons"

2. The words "Inspector-General of Prisons" shall mean any person appointed under the provisions of section 2 of Act VIII of 1856, to inspect and superintend the jails in the Bombay Presidency, subject to the orders of the Governor in Council.

Act VIII of 1856 applicable to Bombay city jails.

3 The provisions of Act VIII of 1856[a] (*An Act for the better control of the jails within the Presidencies of Fort St. George and Bombay*) are hereby declared applicable to all jails situated in the city of Bombay, including the House of Correction, and the supervision of those jails is vested in the Inspector-General of Prisons.

Saving of powers and liabilities of sheriff.

4. Nothing in the preceding section shall be held to interfere with or affect the authority or liability of the sheriff of Bombay and Superintendent of the common jail, over and in regard to persons committed to his custody by the High Court, whether in execution of a decree, or for contempt of Court or other cause.

Construction.

5. Nothing contained in this Act shall be construed as interfering with the power vested in the Governor in Council under Act VIII of 1856, of control of all jails, and to appoint persons to inspect and superintend jails and to vest in them such power and authority for the purpose, as to the Governor in Council may seem proper.

Prisoners in jail on commencement of Act held to be in legal custody.

6. All prisoners in jail at the time this Act comes into operation shall, until the expiration of their sentences, be held, whatever their sentences may be, to be in legal custody, notwithstanding anything in this Act provided, so long as it would not be illegal under any of the Acts now repealed.

PART II.—Classes of Jails.

Civil and criminal jails established.

7. There shall be two classes of jails established in the city and Presidency of Bombay, including Aden and the Province of Sindh:—

(1) Civil jails for the confinement of persons committed to prison or custody in a civil jail, or under process of any civil Court, or by order of any other Court, in cases in which the law directs that persons so committed to prison or custody shall be confined in the civil jail.

(2) Criminal jails, for the execution of punishments under section 53 of the Indian Penal Code (Act XLV of 1860), and for the confinement of persons committed to custody or imprisonment by any Court of criminal jurisdiction, in all cases in which the law does not expressly direct that such persons shall be confined in the civil jail.

PART III.—Civil Jails.

Limitation of application.

8. The provisions of this Part shall not apply to civil jails established in the city of Bombay.

[a] See *supra*, p. 73.

Civil jail to be at seat of each District Court, and may be at other places.

9. There shall be a civil jail at the seat of the District Court for each district created under section 3 of Act XIV of 1869, provided that it shall be in the power of the Governor in Council to establish civil jails at other convenient places.

Názir of District Court to be keeper of civil jail and to have establishment under him.

10. The názir of the District Court or of the chief civil Court of the place where the civil jail is located shall be *ex officio* keeper of the civil jail, and shall be responsible for the safe custody of the prisoners, and for the preservation of cleanliness and good order in the jail and among the prisoners, and shall have such establishment under him as the District Judge, with the sanction of the Governor in Council, may direct.

Judge to visit civil jail.

11. The Judge or the Assistant Judge of the district in which a civil jail is situated shall visit such civil jail at least once in each month, and shall issue in writing such orders connected with the economy of the jail, the good management, health and accommodation of the prisoners, as he may think fit.

He shall record the date of his visit, and any remarks he may have to make, in a book to be kept for the purpose.

Medical officer to attend jail.

12. A medical officer to be appointed by the Governor in Council shall attend the civil jail, and shall be bound to offer such advice to the District Judge, or other officer in charge of the civil jail, as may seem expedient to him with regard to the sanitary state of the jail and of the prisoners.

Remedies administered at expense of Government.

He shall also administer remedies at the expense of the Government to the sick; provided that nothing contained in this section shall prevent a prisoner in a civil jail from employing at his own expense any medical man he may think fit to consult.

Strangers admitted to civil jail.

13. The civil jail shall be opened daily for the admission of those wishing to visit prisoners from 9 A.M. till 3 P.M., and no stranger shall be allowed to remain in the civil jail beyond the abovementioned hours except by permission of the Judge, the Assistant Judge of the district, or on the recommendation of the medical officer by the permission of the názir in charge of the jail.

Subsistence of prisoners in civil jail.

14. *Clause 1.*—Prisoners in the civil jail may either make their own arrangements for their subsistence, or may, within the amount of subsistence-money or batta furnished by the party at whose suit they are detained, require the názir to furnish their food and other necessaries out of the subsistence-money fixed for them by the Court by which they are committed; provided that excess in the use of intoxicating liquors or drugs be strictly prohibited. A tariff of prices approved by the District Judge on the first day of each month shall be kept in each civil jail and shall be accessible to all the prisoners.

Clause 2.—Every civil prisoner unable to provide himself with sufficient clothing and bedding, shall be supplied by the názir with such clothing and

bedding as may be ordered by the Judge or Assistant Judge under the provisions of section 11 of this Act.

When any such prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative, shall be liable to pay to the názir on demand in writing the cost of the clothing and bedding so supplied to the prisoner; and in default of such payment the prisoner shall be released.

Disposal of corpse of prisoner dying in civil jail.

15. Whenever a prisoner shall die in the civil jail, the názir shall immediately report such death to the nearest Magistrate, who shall thereupon inquire into the cause of such death, and make a written report thereon to the Inspector-General of Prisons, and the corpse of such prisoner shall, after the medical officer appointed under section 12 of this Act has certified to his death, be made over to his relatives or friends, or, in failure of their taking the corpse, it shall be buried, burnt or otherwise disposed of at the expense of the civil jail fund, as hereinafter provided.

Disposal of subsistence-money in hand on prisoner's death or release.

16. The balance of subsistence-money remaining in hand at the time of a prisoner's death or release shall be credited to a fund, to be called "the Civil Jail Fund," to be expended on the burial, cremation or disposal of those buried, burnt or otherwise disposed of at the expense of the fund, and in procuring comforts for sick prisoners, and generally for such purposes connected with the maintenance of the civil jail as the Governor in Council may authorize.

PART IV.—Criminal Jails and the Description and Classification of Prisoners to be confined therein.

Criminal jails of three kinds.

17. Criminal jails shall be of three kinds:—

(1) Subordinate,

(2) District, and

(3) Central.

Subordinate jails.

18. Subordinate jails may be established by order of the Governor in Council in any part of the country as occasion may require, and may also, as occasion requires, be abolished or removed, from time to time, to other places.

District-jails.

19. District-jails shall be established at the seats of the Courts of the Session Judges, and may be established at the seats of the Courts of Assistant Session Judges at detached stations, and at such other places as the Governor in Council may, from time to time, direct.

Central jails.

20. Central jails may be established at any places the Governor in Council may think fit, and prisoners shall be sent to those jails under such general rules as the Governor in Council may, from time to time, issue.[a]

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[a] See *Bombay Government Gazette*, 15th April, 1875, p. 378.

Persons to be confined in district and subordinate jails.

21. *Clause 1.*—All convicts sentenced by criminal Courts to periods of rigorous imprisonment not exceeding fourteen days or to simple imprisonment shall be sent to undergo their sentences in the district-jail, or a subordinate jail in the same district, whichever may be the nearer or more accessible to the place where sentence is passed upon the convict; but it shall be lawful for the Governor in Council, by order published in the Government Gazette, to declare that convicts sentenced to periods of rigorous imprisonment not exceeding three months may be sent to undergo their sentences in such subordinate jails adapted to the purpose as may be specified in the said order.

Clause 2.—All persons committed by criminal Courts for intermediate custody pending trial before the Court of Session, shall be sent to the district-jail or to a subordinate jail in the same district, whichever may be nearer to the place where the Court of Session is held.

Convicts where imprisoned.

22. All convicts sentenced by the Courts of Session, and all others, not specially ordered or required by the last preceding section to be imprisoned in a subordinate jail, shall be imprisoned in the district-jail.

Nothing however in this section is to be held as interfering with the power of the Local Government, or of the Inspector-General of Prisons, if specially empowered by Government, to direct the removal of prisoners from one jail to another, or to prevent a central and a district-jail being united in one jail.

Subsistence of prisoners in criminal jails.

23. All prisoners confined in criminal jails shall be subsisted at the expense of the Government, the allowance, which shall always be of food and not of money, being regulated by the Inspector-General of Prisons under the orders of Government.

Necessary clothing, &c., to be supplied at expense of Government

24. Such clothing, bedding and other household articles as are necessary for prisoners in criminal jails shall be supplied at the expense of Government by the Superintendent of the jail, under the direction of the Inspector-General of Prisons.

Classification of prisoners.

25. Male prisoners shall always, and in all jails, be kept separate from female prisoners, and those sent to jail for punishment from those sent there for intermediate custody.

Sick prisoners shall always be sent to the jail-hospital, if any, and prisoners sent to hospital shall be detained there until the surgeon direct that they may be returned to ordinary custody in the jail, and with regard to any further sub-division of prisoners, the jailor shall attend to any orders on the subject that he may receive from the Superintendent of the jail, provided that, consistently with the objects of this Act, due regard is paid to the religious tenets of the prisoners.

When prison-

26. Prisoners sentenced to hard labour, rigorous imprisonment, transport-

ation, penal servitude or death, shall, at the discretion of the Superintendent of the jail, be secured with fetters, handcuffs or stocks, it being understood that such means of restraint are to be imposed as a necessity only, for the maintenance of discipline and security against the escape of prisoners and not as a part of the punishment. ers may be secured with fetters.

The same means of restraint may, when it is necessary, be applied to other prisoners.

PART V.—Superintendents of Criminal Jails and their Duties.

27. Subject to the provisions hereinafter contained, every criminal jail shall be governed and superintended by a person to be appointed by order of the Governor in Council, who shall be called the Superintendent of the jail, and to whom the jailor shall be subordinate where a jailor is appointed. It shall be competent to the Governor in Council to declare that in certain jails the office of jailor shall be held by the person appointed Superintendent. Criminal jails to be under Superintendents, to whom jailors subordinate.

28. Subject to the orders of the Inspector-General of Prisons, the Superintendent shall— Duties of Superintendent.

manage the prison in all matters relating to discipline, labour, expenditure, punishment and control:

correspond on all matters connected with the prison with and through the Inspector-General:

submit to the Inspector-General all bills of prison-expenditure with proper vouchers for audit:

report to the Inspector-General, from time to time as they occur, all escapes and re-captures, and all outbreaks of epidemic disease:

send to the Inspector-General returns of all prisoners sentenced to transportation:

periodically inspect all property of the Government in his charge and report thereon to the Inspector-General:

and generally obey all rules made under section 51 for the guidance of the Superintendent.

The Superintendent shall forward to Government without delay all petitions addressed to Government by prisoners under sentence, or committed for intermediate custody in the jail.

PART VI.—Jailors and their Duties.

29. The jailors of district, central and subordinate jails shall, save as hereinbefore provided, be appointed by the Inspector-General of Prisons: Appointment of jailors.

Provided that it shall be competent for the Governor in Council to declare,

by notification in the Government Gazette, that certain officers are *ex officio* Superintendents or jailors of subordinate jails or of jails situated in the city of Bombay.

Jailor responsible for safe custody of prisoners and execution of warrants.

30. The jailor shall be responsible for the safe custody of the prisoners from the time they are received into the jail, until they are discharged by lawful authority; for the due execution of all warrants and orders regarding prisoners and their punishment, and for the maintenance of discipline in the jail.

No jailor to receive prisoner without warrant.

31. No jailor shall receive any prisoner into custody without the warrant of a Court or officer having authority to commit to prison or custody, or, in the case of a prisoner sentenced by court-martial, without an authenticated copy of the sentence or order required by the Mutiny Act or the Indian Articles of War for the time being in force, or without the warrant of a Court or officer having authority to transfer a prisoner from one jail to another.

Clothing and property of prisoner to be taken charge of by jailor. Disposal of property found in possession of prisoner after admission to jail.

32. The jailor shall take charge of all clothing and other property and money delivered with, or found upon, the person of a criminal prisoner on his admission into jail, and shall keep the same under such rules for its safe custody or disposal as the Inspector-General of prisons with the sanction of Government may make, and the prisoner shall have no claim thereto until his discharge. In the event of the prisoner's death while he is undergoing his sentence, such property shall be made over to whomsoever he may appoint to receive it, and, failing such appointment, it shall be made over to the civil Court under chapter II of Regulation VIII of A.D. 1827,[a] as if there were no heir or executor competent or willing to take possession of such property; provided that any property or money found in possession of a criminal prisoner, at any date subsequent to his admission, shall be forfeited to Government.

PART VII.—Medical Officer.

Treatment of sick prisoners.

33. In the case of district and central jails, a medical officer to be appointed by the Governor in Council shall attend the jail daily, and administer remedies to the sick, ordering the removal of such prisoners as he may think fit to the jail-hospital, and shall also visit daily any prisoners in separate or solitary confinement.

In the event of the Civil Surgeon being appointed under section 27 of this Act to be Superintendent of a jail, he shall himself attend, as medical officer, and administer remedies to the sick.

[a] See *supra*, p 7.

PART VIII.—Prison-offences.

List of prison-offences.

34. The following acts are declared to be offences against prison-discipline:—

(1) wilful disobedience to the regulations of the jail by any prisoner;

(2) assault or use of criminal force by any prisoner;

(3) insulting or threatening language by any prisoner to any officer or prisoner;

(4) indecent or disorderly behaviour by any prisoner;

(5) wilfully disabling himself from labour;

(6) contumaciously refusing to work;

(7) filing or cutting irons or bars;

(8) idleness or negligence at work by any convicted criminal prisoner;

(9) wilful mismanagement of work by any convicted criminal prisoner;

(10) wilful damage to prison-property;

(11) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid;

(12) malingering.

Punishment for breach of jail-discipline.

35. The Superintendent of the jail on report being made to him by the jailor of the commission by a prisoner of any of the offences mentioned in the immediately preceding section, and being satisfied of the fact, or when any misconduct of the nature described in the preceding section is committed or occurs in his presence, may, subject to the rules made under section 52 of this Act, punish such misconduct or breach of discipline by—

(1) solitary confinement for a period not exceeding seven days;

(2) confinement in the stocks for a period which may extend to twelve hours;

(3) penal diet;

(4) corporal punishment not exceeding twenty-five stripes with a ratan of not more than three-eighths of an inch diameter:

Provided always, that corporal punishment shall not be inflicted on any male prisoner, unless the medical officer of the jail shall state that the prisoner can bear it without danger to his general health, and that such corporal punishment shall never be inflicted in any subordinate jail, and shall not be inflicted in any central or district-jail except in the presence of the Superintendent of the jail and of the medical officer (if the Superintendent is not also the medical officer under section 33), or in his absence of the medical

subordinate, and that corporal punishment shall in no case be inflicted on any female prisoner:

Provided also that, when penal diet is awarded as a punishment, it shall not be extended beyond ninety-six consecutive hours, and it shall not be repeated in the case of the same prisoner under an interval of seven days.

Punishment-book to be kept.

36. The Superintendent of the jail shall keep a book, to be called "The Punishment-Book," in which shall be recorded the prisoner's name, the breach of prison-discipline of which he was guilty, the date on which it was committed, the punishment inflicted and the date of the infliction of such punishment with the substance of the evidence on which the offence was considered proved when the punishment inflicted is corporal.

PART IX.—Offences in relation to Jails.

Carrying liquor, tobacco or drugs into jail.

37. Whoever, contrary to the regulations of the jail, brings, throws or attempts by any means whatever to give to any prisoner or to introduce into any jail, any spirituous or fermented liquor or tobacco or intoxicating or poisonous drug;

and every officer of a jail, who knowingly suffers any such liquor, tobacco or drug to be sold or used in, or introduced into, such jail contrary to such regulations;

and whoever, contrary to such regulations, conveys or attempts to convey any letter or other article not allowed by such regulations into or out of any such jail;

shall, on conviction before a Magistrate, be liable to rigorous imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

Notice of penalties to be placed outside prison.

38. The Superintendent shall cause to be affixed, in a conspicuous place outside the jail, a notice setting forth the penalties incurred by persons committing any offence under section 37 of this Act.

PART X.—Visits to and Correspondence of Prisoners.

Visits to prisoners.

39. Due provision shall be made for the admission at proper times, and under proper restrictions, into every jail, of persons with whom prisoners committed for intermediate custody may desire to communicate.

Government may also impose such restrictions upon the communication and correspondence of prisoners with their friends as it thinks necessary for the maintenance of good order and discipline.

Power of

40 The jailor may demand the name and address of any visitor to a

prisoner, and when the jailor has any ground for suspicion he may search visitors, or cause them to be searched, but the search shall not be in the presence of any prisoner or of another visitor. Jailors as to visitors.

In case of any such visitor refusing to be searched, the jailor may deny him admission; and the grounds of such proceeding, with the particulars thereof, shall be recorded by him in writing and reported to the Superintendent.

PART XI.—Discharge of Prisoners.

41. When a sentence has been fully executed, the Superintendent shall cause to be made over to the prisoner the clothing taken from him under section 32, or other suitable clothing, and shall cause to be received from him the clothing and other articles furnished to him at the expense of the Government, and shall endorse upon the warrant a statement of how it has been executed, and shall then cause the prisoner to be discharged. Procedure on expiration term of prisoner's sentence.

The Superintendent of the jail shall then return the warrant with his endorsement thereon to the officer from whom it was received.

42 The Superintendent of the jail shall, at the time of discharging the prisoner, cause to be made over to him any other property or money he may have received with the prisoner or found on him and taken charge of, as directed in section 32, and shall take his receipt for the same; and the receipt, countersigned by the Superintendent, shall be deemed to be a good acquittance and release from all claims by the prisoner or his representatives against the jailor for such property or money. Prisoner's personal property to be returned to him on discharge.

43. When a prisoner is released the Superintendent of the jail may, if he sees sufficient reason, grant him a sum of money sufficient for his subsistence until he reach his native village, or the place where he was apprehended. Subsistence-money may be given to prisoner on discharge.

44. No prisoner in a criminal jail being in hospital on the expiration of his sentence, shall be discharged from the hospital, except at his own request, or unless the surgeon certify that he can be discharged without endangering his life or protracting his illness; the Superintendent shall explain to him that his sentence has expired, and shall direct all restraint to be removed, and, on the surgeon reporting the late prisoner convalescent and about to leave the hospital, the Superintendent of the jail may grant him, if necessary, subsistence-money, as provided in the last section. Disposal of prisoner in hospital on expiration of sentence.

PART XII.—Visitors of Jails.

45. *Clause 1.*—In the case of mufassal district-jails the Magistrate of the Visitors of

district-jails.

district, or any Magistrate subordinate to him whom he may appoint, shall, once in every week, visit the district-jail and hospital, to hear complaints, and to see that considerations of cleanliness, health and security are attended to, and a proper management maintained in all respects.

He shall examine the punishment-book, and record his proceedings and observations in a book, to be called "The Visitors' Book."

He shall bring any special cases to the special notice of the Inspector-General of Prisons, or, if necessary, of the Government, and he may direct petitions from prisoners to Government to be prepared and forwarded.

Clause 2.—The Session Judge, the Assistant Session Judge, the District Superintendent of Police, the Executive Engineer of the district and the Civil Surgeon (when not the Superintendent of the jail) shall be *ex officio* visitors of the district-jail, and other persons may from time to time be appointed visitors by Government.

Two or more of the visitors, one of whom shall be the District Magistrate, shall, once at least in every quarter, meet in committee and visit every part of the district-jail and hospital to hear complaints, and to see that considerations of cleanliness, health and security are attended to, and a proper management maintained in all respects. They shall examine the register of convicted and undertrial prisoners to see that no person is illegally detained in jail or kept waiting trial for an undue length of time, and the punishment-book, and shall record their proceedings in the visitors' book, a copy of which should be forwarded to the Inspector-General of Prisons.

Visitation of district-jails in places beyond Regulation-districts in case Act extended thereto.

46. In the event of the provisions of this Act being extended or applied to any place beyond the districts subject to the operation of the general Regulations and Acts affecting the Bombay Presidency, the weekly and periodical visitation, as hereinbefore directed, of any district-jail established in the said place, shall be conducted by such officers as the Government may from time to time appoint, and the visitors so appointed shall have the same powers and duties as are conferred on *ex officio* visitors by the preceding section.

Visitors of central and subordinate jails and of jails in city of Bombay

47. Visitors for central and subordinate jails and for jails in the city of Bombay shall be appointed by the Government, for the purposes contemplated in the preceding sections, to the provisions of which they shall in all respects conform.

PART XIII.—Extramural Gangs.

Employment of prisoners

48. It shall be lawful for the Governor in Council to authorize the employment (under such conditions as he may from time to time determine) of gangs

of prisoners sentenced to rigorous imprisonment, penal servitude or transportation, upon the construction of roads, canal or other public works, or upon works of improvements or conservancy in the towns in which jails are situated; and such prisoners while so employed shall be deemed to be in the same legal custody and to be subject to the same discipline as if they were actually confined within the precincts of a jail; and if any prisoner escape or attempt to escape from custody while so employed, such prisoner and every person aiding or attempting to aid him in such escape, shall be subject to the same punishment as if such escape or attempt to escape were an escape or attempt to escape from jail.

on extramural works.

PART XIV.—Miscellaneous.

49. If any prisoner shall die in jail before full execution of his sentence, the Superintendent shall immediately report such death to the nearest Magistrate, or, in the case of prisoners dying in jails situated in the city of Bombay to the Coroner, who shall thereupon inquire into the cause of such death, and make a written report thereon to the Inspector-General of Prisons, and upon such death taking place, the warrant shall be returned by the Superintendent to the officer who issued it, with an endorsement showing how far it had been executed, and with a certificate attached to it from the medical officer certifying to the prisoner's death.

Procedure if prisoner dies in jail before full execution of sentence.

The corpse of any such prisoner or of any convict on whom the sentence of death has been carried out shall, unless Government otherwise direct, be made over to his friends or relatives, or on failure of their taking the corpse shall be buried, burnt, or otherwise disposed of at the expense of Government.

50. Whenever Government or the Inspector-General of Prisons, with the sanction of Government, shall direct the removal of prisoners from one jail to another, or shall by reason of the outbreak of epidemic disease, or for other cause, order the temporary accommodation of prisoners outside the jail-precincts, such prisoners shall, during the period occupied in their removal or during such temporary transfer, be deemed to be in the legal custody of the person or persons empowered to remove or transfer them, and to be subject to the same restraint, and in the event of misbehaviour to the same punishment, as if they had continued in jail, and as if the person or persons empowered to remove or transfer them were the jailor or Superintendent of the jail, wherein such prisoners were prior to such removal or transfer confined; and if any prisoner escape or attempt to escape from such custody, such prisoner, and every person aiding or attempting to aid him in such escape shall be subject

Prisoners whilst being moved from one jail to another, or when temporarily accommodated outside jail-precincts, deemed to be in legal custody.

to the same punishment as if such escape or attempt to escape were an escape or attempt to escape from jail.

Escapes.

51. If any prisoner make his escape from jail, the Superintendent shall endorse on his warrant to what extent his sentence had been carried out, and the date of the escape, and shall return the warrant to the officer who issued it, and the warrant and endorsement shall be proof in every Court that the prisoner was convicted, that he underwent the extent of punishment endorsed on the warrant, and that he effected his escape from confinement on the day stated

Inspector-General of prisons to make rules.

52. The Inspector-General of Prisons shall, from time to time, with the sanction of Government, make such rules and orders as may appear necessary for the supervision, employment, custody, clothing, dieting, treatment, punishment and classification of prisoners, and for the management of jails.

ACT No. III of 1874.

Received the Governor's assent on the 6th of November, 1874, and the Governor General's assent on the 27th of January, 1875, and published by the Governor on the 5th of February, 1875.

An Act to amend the law relating to hereditary offices.

Preamble.

WHEREAS it is expedient to declare and amend the law relating to hereditary offices; It is hereby enacted as follows :—

PART I.—PRELIMINARY.

Short title

1. This Act may be called the "Bombay Hereditary Offices Act."

It extends to the Regulation-districts and to all villages therein, whether alienated or otherwise, so far as its provisions shall not conflict with the terms on which any such alienated village may have been secured to the holder thereof.

Nothing in this Act shall affect the powers of Government to deal with any watan or parts of watans, or with the profits thereof respectively under Act No. XI of 1852, or Bombay Acts Nos. II and VII of 1863, or any other law at present in force with respect thereto.

2.—[*Repealed by Act No. XII of 1876.*]

Application of Parts VI, VII, VIII and IX

3 Parts VI, VII, VIII and IX of this Act shall not apply to hereditary offices of lower degree than pátel or kulkarni, nor to watans appertaining to such offices.

4. In this Act, unless there be something repugnant in the subject or context, Interpretation-clause.

"watan-property" means the moveable or immoveable property held, acquired or assigned for providing remuneration for the performance of the duty appertaining to an hereditary office.

It includes a right to levy customary fees or perquisites, in money or in kind, whether at fixed times or otherwise:

it includes cash-payments in addition to the original watan-property made voluntarily by Government and subject periodically to modification or withdrawal:

"hereditary office" means every office held hereditarily for the performance of duties connected with the administration or collection of the public revenue, or with the village-police, or with the settlement of boundaries, or other matters of civil administration.

The expression includes such office even where the services originally appertaining to it have ceased to be demanded:

the watan-property, if any, and the hereditary office and the rights and privileges attached to them together constitute the watan:

"watandár" means a person having an hereditary interest in a watan. It includes a person holding watan-property acquired by him before the introduction of the British Government into the locality of the watan, or legally acquired subsequent to such introduction, and a person holding such property from him by inheritance. It includes a person adopted by an owner of a watan or part of a watan, subject to the conditions specified in sections 33 to 35 of this Act:

"family" includes each of the branches of the family descended from an original watandár: Provided that no sub-division shall be recognized except as hereinafter provided in section 26:

"head of a family" includes the chief representative of each branch of a family:

"representative watandár" means a watandár registered by the Collector under section 25 of this Act as having a right to perform the duties of an hereditary office:

"officiator" means the person actually performing the duties of an hereditary office for the time being, whether he be a representative watandár or a deputy or a substitute appointed under any of the provisions of this Act:

"guardian" means a relation or other person to whom the care, nurture or custody of any child falls by natural right or recognized usage, or who has accepted or assumed directly the care, nurture or custody of any child, or in case of dispute the holder of a certificate of guardianship from a competent Court.

PART II.—WATAN-PROPERTY AND PROFITS THEREOF.

Watandár not to alienate watan to non-watandár without sanction.

5. No watandár shall, without the sanction of Government, sell, mortgage or otherwise alienate or assign any watan or part thereof or interest therein to any person not a watandár of the same watan.

Collector may institute legal proceedings for protection of watan.

6.—*Clause 1.* In any case in which it shall appear to the Collector that the institution of legal proceedings is requisite or desirable with respect to any watan, or the estate, property, funds or affairs thereof, the Collector shall certify such case in writing under his hand to the Revenue Commissioner, together with such statements and particulars as in his opinion may be requisite or proper for the explanation of such case, and thereupon the said Revenue Commissioner, if upon consideration of the circumstances he thinks fit, shall authorize the Collector to institute and prosecute in the name of the Collector such legal proceedings as may appear requisite or proper for the protection of the watan, its estates, property, funds or affairs, by suit or petition in any civil Court having jurisdiction in the matter. The cost of such proceedings, unless recovered from the opposite party, shall be paid out of the funds of the watan.

Collector may proceed under sections 8 to 11, or 13.

Clause 2.—The Collector may, if he thinks fit, proceed as provided in sections 8, 9, 10, 11 or 13 of this Act in lieu of instituting or prosecuting legal proceedings under this section.

Watan assigned as remuneration not alienable without sanction.

7. Watan-property assigned under section 23 of this Act as remuneration of an officiator, and the profits of watan-property so assigned, shall not be alienated or assigned to any person whatever without the sanction of Government.

Watan-property passed into possession of person other than officiator liable to contribution for remuneration of officiator.

8. Whenever any watan or any part thereof, or any of the profits thereof, whether assigned as remuneration of an officiator or not, has or have before the date of this Act coming into force passed by virtue of, or in execution of, a decree or order of any British Court into the ownership or beneficial possession of any person other than the officiator for the time being, or has or have before such date passed otherwise than by virtue of, or in execution of, a decree or order of any British Court into the ownership or beneficial possession of a watandár other than such officiator; or

when any watan, or part or profits thereof, not being assigned as remuneration of an officiator has, after the date of this Act coming into force, passed by virtue of, or in execution of, a decree or order of any British Court or otherwise, into the ownership or beneficial possession of a watandár other than such officiator;

such watan or any part thereof, or any of the profits thereof, shall be liable under the orders of the Collector to contribution for the remuneration

of such officiator in like manner and to the like extent as if no such decree had been passed or no such transfer had taken place.

Collector may declare alienation of watan-property to be under certain circumstances null and void.

9. *Clause 1.*—Whenever any watan or any part thereof, or any of the profits thereof, whether assigned as remuneration of an officiator or not, has or have, before the date of this Act coming into force, passed otherwise than by virtue of, or in execution of, a decree or order of any British Court, and without the consent of the Collector and transfer of ownership in the revenue-records, into the ownership or beneficial possession of any person not a watandár of the same watan, the Collector may, after recording his reasons in writing, declare such alienation to be null and void, and order that such watan or any part thereof, or any of the profits thereof, shall from the date of such order belong to the watandár previously entitled thereto, and may recover and pay to such watandár any profits thereof accordingly.

Collector may in case of land recover full rent.

Clause 2.—If such part of a watan be land, it shall be lawful for the Collector, instead of transferring the possession of the land, to demand and recover the full rent ordinarily paid by tenants of land of similar description in the same locality, and the amount so recovered shall be considered as the profits. The decision of the Collector as to what is the full rent shall be final.

Civil Court on Collector's certificate, to remove attachment on watan-property assigned as remuneration of officiator.

10. When it shall appear to the Collector that by virtue of, or in execution of, a decree or order of any British Court any watan or any part thereof, or any of the profits thereof, recorded as such in the revenue-records or registered under this Act, and assigned under section 23 of this Act as remuneration of an officiator, has or have after the date of this Act coming into force, passed or may pass without the sanction of Government into the ownership or beneficial possession of any person other than the officiator for the time being; or that any such watan or any part thereof, or any of the profits thereof, not so assigned has or have so passed into the ownership or beneficial possession of any person not a watandár of the same watan, the Court shall, on receipt of a certificate under the hand and seal of the Collector, stating that the property to which the decree or order relates is a watan or part of a watan, or that such property constitutes the profits or part of the profits of a watan, or is assigned as the remuneration of an officiator, and is therefore inalienable, remove any attachment or other process then pending against the said watan or any part thereof, or any of the profits thereof, and set aside any sale or order of sale or transfer thereof, and shall cancel the decree or order complained of so far as it concerns the said watan or any part thereof, or any of the profits thereof.

Collector may declare null and void alienation of watan-property made

11. When any alienation of the nature described in section 10 of this Act shall take place otherwise than by virtue of, or in execution of, a decree or order of any British Court, the Collector shall, after recording his reasons in writing, declare such alienation to be null and void, and shall either

after passing of Act.

summarily resume possession of such property, or assess it at the rate prescribed in section 9, clause 2, of this Act, as he may think fit, and it shall thenceforward revert to the watan.

Powers of Collector to carry out provisions of sections 8, 9 and 11.

12. It shall be lawful for the Collector whenever it may be necessary, in carrying out the provisions of sections 8, 9 and 11 of this Act,

(*a*) to summarily evict any person wrongfully in possession of any land, or

(*b*) to levy any rent due by any person in the manner that may be prescribed in any law for the time being in force for the levy of a revenue-demand.

Watan assigned as remuneration not liable to process of Court.

13. Watan-property assigned as remuneration of an officiator under section 23 of this Act and the profits of such watan-property are not liable to process of any civil Court.

On receipt of a certificate under the hand and seal of a Collector, to the effect that certain property designated therein is watan-property so assigned, the Court shall remove any attachment or other process placed on, or set aside any sale of, or affecting, such property or the profits thereof.

Combination of hereditary offices.

14. *Clause 1.*—It shall be lawful for a Collector, for reasons to be stated in writing, to combine two or more watans held for the performance of similar services in the same village or parts of the same village.

Clause 2.—Any such combination made before the date of this Act coming into force shall have the same force as if made under this Act.

PART III.—Commutation of Watans.

Commutation of service.

15. *Clause 1.*—The Collector may, with the consent of the holder of a watan, given in writing, relieve him and his heirs and successors in perpetuity of their liability to perform service upon such conditions, whether consistent with the provisions of this Act or not, as may be agreed upon by the Collector and such holder.

Settlements made before passing of Act to have same force as those made under Act.

Clause 2.—Any settlement made for this purpose before the date of this Act coming into force, by any Collector or other officer acting on behalf of Government with the holder of any watan, shall have the same force as if made under this Act.

Settlement on whom to be binding.

Clause 3.—Every settlement made or confirmed under this section shall be binding upon both Government and the holder of the watan and his heirs and successors.

Who is a "holder."

Clause 4.—The word "holder," for the purposes of this section, includes any sole owner or the whole number of joint owners or any person dealt with as representative of the persons beneficially interested or entered as such in the Government-records at the time of the settlement.

Rights of individuals to exact customary service from village-servants not affected.

16. Nothing in the last preceding section shall be held to affect any rights of individuals or village-communities to exact such service as may be customary from village-servants whose watans were originally granted or are now held for the performance of such service, but who have been relieved by Government of liability to perform such service to the State.

Assessment of amount of payments in alienated villages.

17. When all or any of the property of a watan consists of payments of whatever description, whether in money or kind, made by jagírdárs, inámdárs, mewásí chiefs, or others owing[a] or occupying immoveable property wholly or partially free from assessment, the Collector may from time to time determine the amount of such payments recoverable; provided that no larger demand shall be made than one equivalent to the amount that would be payable under the scale in force for the time being in the case of Government-villages.

Appointment of panchayat to define rights and duties of certain classes of watandárs.

18. When all or any of the property of a village-watan of lower degree than that of patel or kulkarni consists of a right to levy in money or kind directly from individuals, it shall be lawful for the Collector, on the application of any person interested, to cause the nature and extent of such right and of the duties to be performed, and the persons, families or classes liable to make payment and to perform the duties, to be defined in writing by a panchâyat of five persons, whereof two shall be appointed by the villagers, two by the watandárs, and one, who shall be sar-panch, by the Collector.

The decision shall be in accordance with the opinion of the majority of the panchâyat, provided that, in case the villagers or the watandárs fail to nominate members within seven days, the Collector shall appoint such members as may be required to constitute a panchâyat of five:

Provided also that, in case the panchâyat do not come to a decision within seven days from the appointment of the sar-panch, the Collector may himself pass a decision.

The decision of the panchâyat or of the Collector, as above provided, shall be final and binding on all persons or classes whose rights, duties or liabilities have been submitted to such decision.

Mode of fixing amount payable when profits of watan fluctuate.

19. Whenever, on failure of the panchâyat to come to a decision, the Collector, acting under the last preceding section, passes a decision, and it appears that the profits of the watan or part thereof are of fluctuating amount, or are payable in kind, it shall be lawful for the Collector to determine the amount payable and to decide whether the payment shall be made in kind or money.

Validity of settlements made prior to

20. Any settlement of the nature described in sections 17, 18 or 19 of this Act, made before the date of this Act coming into force, by a Collector

[a] *Sic.* Read "owning."

passing of Act.

or other officer duly authorized by Government, shall have the same force as if made under this Act.

Settlements for such period as Government may direct.

21. Settlements of the nature described in sections 17, 18 and 19 of this Act, made after this Act comes into force, shall be made for such periods as the Governor in Council may from time to time direct.

PART IV.—Creation and Lapse of Watans.

Creation of new watans.

22. When no watan exists, it shall be lawful for Government to create one, and in so doing to assign, subject to such sanction as may be required by any law, or order of the Governor General of India in Council, for the time being in force, such property of Government as to Government may seem fit.

Such watan shall be subject to all the provisions of this Act, and the watandárs shall exercise the powers and perform the duties conferred and imposed by this Act or any other law for the time being in force.

When a watan or part of a watan has lapsed or has been confiscated or otherwise lawfully resumed by Government, or when the right of any particular family to hold a watan does not exist or is not established, it shall be lawful for Government, subject to the sanction mentioned in the first clause of this section, to assign such watan or part of a watan to such person or persons as to Government may seem fit.

PART V.—Remuneration of Officiators.

Collector to fix emoluments of officiators.

23. Subject to the provisions of this Act and of any other law for the time being in force regarding service-ináms, cash-allowances and pensions, it shall be the duty of the Collector to fix the annual emoluments of officiators appointed under the provisions of this Act, and to direct the payment thereof to the officiators for the time being.

Collector may assign watan-property for purpose.

It shall be lawful for the Collector for this purpose to assign watan-property, or the profits thereof, towards the emoluments of officiators.

The existing assignments shall, until altered by competent authority, be taken to have been made under this section.

With the sanction of Government the Collector may, as occasion arises, alter the assignment and may increase or diminish it in value, such increase or diminution being made rateably among the holders in proportion to the profit derived by such holders respectively from the watan.

PART VI.—Representative Watandárs.

Duties to be

24. The duties appertaining to any hereditary office shall be performed by

the representative watandárs or by deputies or substitutes as hereinafter provided, and by no other persons. performed by representative watandárs.

25. It shall be the duty of the Collector to determine, as hereinafter provided, the custom of the watan as to service and what persons shall be recognized as representative watandárs for the purpose of this Act, and to register their names. Determination and registration of representative watandárs

26. In determining what heads of families shall be recognized as representative watandárs and what is the custom of the watan as to service, the Collector shall inquire into and take into consideration the practice heretofore observed from the earliest period for which there are records or other evidence available; Previous practice to be considered in determining who are representative watandárs.

provided that he shall not be bound to recognize appointments or subdivisions which have been made subsequently to the introduction of Act No. XI of 1843,[a] and which he considers to be contrary to the custom of the watan.

27. If it shall appear to the Collector that the custom has been for a member of one family only to serve, the Collector shall register the name of the head of such family only as the representative watandár and no other person. Registration of head of family as sole representative watandár.

28. If it shall appear to the Collector that the custom has been for a member of each of several families to perform the duties either contemporaneously or for successive periods, the Collector shall register the name of the head of each of such families as representative watandárs and no other persons, and where the practice of service in successive periods is proved to exist, he shall decide the order in which the representative watandárs shall officiate. Registration of heads of families as representative watandárs.

29. *Clause 1.*—Where the practice of service in successive periods appears to have existed, but is not proved to the satisfaction of the Collector to have existed at the date of the introduction of Act No. XI of 1843, or when the practice of selection by the Collector from several families prevails, he shall determine who is the head of the eldest family descended from the original watandár, and shall register his name as sole representative watandár. Registration of head of eldest family as sole representative watandár.

Clause 2.—In cases where such several families are not descended from a common ancestor, the Collector shall register as representative watandárs the heads of such families, and establish the practice of service in successive periods. Registration of heads of separate families as representative watandárs

30. When the practice of service in successive periods has been introduced under the British rule, in consequence of the reduction in the number of Registration as representative watandár

[a] Repealed by this Act, sec. 2

of head of each family in amalgamated watan.

sharers or the amalgamation of watans by Government, the head of each family that formerly officiated shall be separately entered as a representative watandár.

Procedure if heads of families agree as to who are representative watandárs.

31. But if in any case described in section 29 of this Act the heads of families at any time before the completion of the register prescribed by this Act agree unanimously in writing, or have in writing agreed during the inquiry made in the preparation of the existing registers, as to who are the representative watandárs, and as to the order of service, then the register prescribed in this Act shall be prepared in accordance with such agreement.

Right of service to remain after relinquishment of property.

32. When watan-property or profits have been voluntarily relinquished without abandonment of right of service, such right of service shall be dealt with as if the watandárs were still in receipt of such emoluments.

Notice of adoption if heir has been adopted prior to passing of Act.

33. In any case in which, before the coming of this Act into force, any registered representative watandár or his widow shall have adopted an heir, notice of the same shall, within twelve months from the coming into force of this Act, be given by or on behalf of such adopted heir to the Collector, who shall register the name of such heir accordingly.

But if such adoption shall be shown to have been or shall subsequently be set aside by decree of a competent Court, the Collector shall remove such name from the register.

Notice of adoption when heir adopted after passing of Act.

34. In any case in which, after the coming of this Act into force, any registered representative watandár or his widow shall adopt an heir, report of such adoption shall within three months be made to the Collector by such watandár, or by his widow, or in case of their death then by such adopted heir, or by the guardian of the latter, and the Collector shall register the name of such heir accordingly.

But if such adoption shall subsequently be set aside by decree of a competent Court, the Collector shall remove such name from the register.

Procedure if notice of adoption not duly given.

35. In any case in which report of such adoption shall not be made as herein directed, the Collector shall not recognize the same without the production of a certificate of heirship, or of a final decree of a competent Court establishing the validity of such adoption.

Death of representative watandár to be reported; name of heir to be registered.

36. When any representative watandár dies it shall be the duty of the patel and village-accountant to report the fact to the Collector; and the Collector shall, if satisfied of the truth of the report, register the name of the eldest son or other person appearing to be nearest heir of such watandár as representative watandár in place of the watandár so deceased.

A certificate of heirship or a decree of a competent Court shall, until revoked or set aside, be conclusive proof of the facts stated or determined in such certificate or decree.

Guardian of minor watandár to perform duties of minor.

37. When any head of a family or representative watandár is under the age of eighteen years, his guardian may, subject to the provisions of section 51 of this Act, exercise all powers and perform all duties conferred and imposed by this Act.

PART VII.—Periods of Service.

Period for which representative watandár to perform duties.

38. The periods during which a representative watandár shall perform the duties shall be as follows:—

In watans registered under section 27, the first clause of section 29, and section 31 of this Act, the period of service shall be for life.

In watans registered under section 28, the second clause of section 29, and section 30 of this Act, the period of service, if contemporaneous, shall be for life, and if in successive periods, the period shall be fixed at the discretion of the Collector, but for a patel shall be not less than ten years, and for a kulkarni not less than five years.

Procedure on death of officiator.

39. In the event of the officiating watandár dying before the expiration of his fixed period of service, his heir shall, subject to the provisions of Part VIII of this Act, be entitled to officiate for the remainder of that period.

Election of officiator in rotation-watan.

40. *Clause 1.*—In the case of a watan in which the representative watandárs are entitled to perform the duties in successive periods, the Collector shall, on the occurrence of the turn of any such representative watandár to perform the duties, issue a notice to the whole body of registered representative watandárs calling upon them to appear before him at a certain time and place to elect an officiator, or such number of officiators as may be required by the Collector under the provisions of section 43 of this Act.

Clause 2.—If not less than three-fourths, including the watandár whose turn it is to officiate, of the representative watandárs appear at the appointed time and place and unanimously nominate a fit and proper person or persons being a watandár or watandárs of the same watan, the person or persons so nominated shall be entitled to officiate in the place and for the period of service of the representative watandár whose turn it is to perform the duties.

Clause 3.—If the person or persons so nominated be other than the representative watandár whose turn it is to perform the duties, he or they shall, for all the purposes of this Act, be deemed to be the duly appointed deputy or deputies of the said representative watandár.

Mode of appointment if representative watandárs fail to nominate officiator.

41. If in the case of a watan in which the representative watandárs are entitled to perform the duties in successive periods, the representative watandárs shall not appear at the time and place appointed under the provisions of the last preceding section, or shall fail to nominate an officiator, or the

requisite number of officiators, unanimously, then the provisions of this Act as to service by the representative watandár entitled to officiate and as to appointment of deputies shall apply

PART VIII.—Officiating Watandárs and Deputies

Representative watandár to perform duties of office

42 Every representative watandár whose duty it is to officiate shall, if a fit and proper person, perform the duties of the hereditary office himself on being so required by the Collector, but may be permitted by the Collector to appoint a deputy

Collector to determine number of officiators required.

43 The Collector shall determine the number of officiators required for the proper performance of the duties of any office from time to time, and for this requirement may call upon the representative watandár aforesaid to appoint a sufficient number of fit and proper persons as deputies, or may direct service in successive periods by representative watandars who have hitherto served or are serving contemporaneously

Collector to appoint deputy if watandár fails

44 If any requisition of the Collector under sections 42, 43, 46 or 48 of this Act is not complied with within two months from the date thereof, the Collector may himself appoint a deputy or deputies

Collector may refuse to accept service of representative watandár or deputy nominated by him

45 The Collector may refuse to accept the service of any representative watandár whose duty it is to officiate, or of any deputy nominated by him, if the Collector has good reason to believe after due inquiry that such watandár or deputy is of known bad character, or is unfit, by reason of physical or mental inability, or by reason of other employment or calling, to perform efficiently the duties of the office

Procedure if watandár or deputy physically or mentally incompetent to officiate

46 In the event of any representative watandár whose duty it is to officiate being or becoming unfit by reason of other employment or calling, or physical incompetency, the Collector shall call upon him to appoint a deputy, and in case of his mental incompetency shall himself appoint a deputy

In the event of a deputy so becoming unfit, the representative watandár, unless himself mentally incompetent, shall be called upon to appoint another deputy in his place

On cessation of disqualification, representative watandár entitled to serve

47 Whenever a representative watandár whose duty it is to officiate ceases to be disqualified under the provisions of sections 45 and 46 of this Act, he shall become entitled, if otherwise fit, to serve in person or to appoint a deputy in supersession of any deputy appointed by the Collector.

Second nomination of deputy

48. In the case of any nomination of a deputy the Collector shall allow a second nomination to be made in case of his rejecting the first nomination, and if he shall reject the second nomination, he shall himself appoint a deputy.

Representative watandár may officiate for deputy removed.

49. The representative watandár whose duty it is to officiate, may himself, if otherwise fit, perform the duties in place of any deputy removed or rejected by the Collector, or deceased.

Collector may nominate deputy if representative watandár rejected or removed.

50. When a representative watandár has been rejected as being of known bad character, or removed on account of grave misconduct, under the provisions of section 58 of this Act, the Collector himself may nominate and appoint a deputy.

Female cannot officiate, but may nominate deputy.

51. No female shall perform in person the duties of any hereditary office; but if a representative watandár, or the guardian of a representative watandár, she may appoint a deputy.

Collector to appoint deputy when officiator suspended.

52. During the suspension of an officiating representative watandár or deputy, and during any vacancy, the duties shall temporarily be performed by a substitute, whether a watandár or not, appointed by the Collector.

Deputy may be stranger in certain cases only.

53. In all other cases, except as provided in section 58 of this Act, none but a watandár shall be appointed as deputy, whether by the Collector or any representative watandár, if there be a watandár of the same watan fit and willing to serve, and in the event of the representative watandár declining to appoint a watandár as his deputy, the Collector shall himself appoint one.

When the Collector himself appoints a deputy under the provisions of section 50 of this Act, he may, if Government so direct, appoint other than a watandár.

Term of appointment of deputy.

54. When the Collector appoints a deputy, it shall be for a term not exceeding five years.

When a watandár entitled to officiate appoints a deputy, it shall be for a term not less than five years, or for life.

The term of appointment of a deputy shall cease and determine on the right of his principal ceasing, or on the death of his principal, and any appointment of a deputy on behalf of a representative watandár under the age of eighteen years shall terminate on the attainment by such representative watandár of that age.

Officiator if absent or ill may appoint substitute.

55. In the event of temporary absence or illness, an officiator may arrange with any fit person for the temporary conduct of the duties, but shall be liable in the penalties prescribed in sections 57 to 61 of this Act.

Head of family when to be treated as watandár.

56. When the hereditary right to perform the duties of an hereditary office as deputies of the original watandár is vested in a family distinct from that of the original watandár, the custom shall be recognized, and the heads of the family entitled to perform the duties shall be registered and treated as representative watandárs.

Part IX.—Penalties

Punishment of officiators

57 It shall be lawful for the Collector to suspend any officiator from office during inquiry into alleged misconduct, and to punish any such officiator for misconduct or neglect of duty by suspension from office for a period not exceeding six months, or by fine not exceeding the fourth part of the annual emolument provided for the officiator

The order of the Collector shall be final in such cases, except when the penalty is inflicted on an hereditary district-officer

Collector may remove officiator with sanction of Government

58 It shall be lawful for the Collector, with the previous sanction of Government, in case of fraud, the wilful framing of incorrect records, habitual neglect of duty, or other grave misconduct on the part of an officiator, to remove him from office

Officiator removed from office ineligible for re employment

59 Whoever is removed from office under the preceding section shall be ineligible for re-employment or continuance in any hereditary office, except with the sanction of Government, and in case he be a representative watandár and his period of performing the duties recurs, the appointment of a deputy under the provisions of Part VIII of this Act shall, on the recurrence of such period, be made by the Collector and not by him.

Forfeiture of watan for misconduct

60 When any representative watandár or any deputy or substitute appointed by him is convicted by any Court of Session of any offence in the discharge of his official duties, it shall be lawful for Government to direct the forfeiture of the whole or any part of the watan or of the profits thereof

Forfeiture of life interest of officiator and deputy for misconduct of deputy.

61 All deputies appointed under this Act shall be subject to the same rules in the performance of the duties of their offices, and to the same penalties, except as otherwise provided, as the representative watandárs themselves are subject to when officiating, and in the case specified in section 58 of this Act, it shall be lawful for Government to direct the forfeiture of the life-interest in the watan of the representative watandár entitled to officiate, whether the officiator guilty of misconduct be such representative watandár himself or a deputy appointed by him

Order to be passed after investigation

62 No order shall be passed under this Part except upon perusal of the judgment of a Court or after investigation recorded in writing

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Part X —Inferior Village Hereditary Offices

Application of Part X

63 This part applies only to hereditary village-offices of lower degree than that of patel or kulkarni

Powers granted to Collector.

64. The Collector is empowered, subject to the general control of Government—

(*a*) to register the names of individual watandárs as holders of the office, or to register it as held by the whole body of watandárs:

(*b*) to determine, when individual names are so registered, the rights, duties and responsibilities among themselves of the persons so registered, and the mode in which they shall be selected to perform the duties, whether by selection by the Collector or by defined rotation, or by election by the watandárs, or otherwise, as may be expedient:

(*c*) to require, in cases where the registration is made in the name of the whole body of watandárs, that they appoint so many fit persons as may be necessary to perform the duties which the Collector may assign to them severally and jointly; such appointment to be made within a reasonable time to be previously fixed and notified to them by the Collector. In default of such appointment being made the Collector may himself appoint:

(*d*) to provide for and enforce the joint responsibility of the whole body for the neglect of duty or misconduct of any of their number or their representatives; and in cases where the crime of cattle poisoning is prevalent, with the sanction of Government to attach, during the pleasure of Government, the watans of the persons whom he may have reason to believe to have been guilty of, or to have connived at, the commission of the crime:

(*e*) to pass orders in regard to appointment, remuneration, period of service, suspension, fining and dismissal of persons officiating, the grant of leave of absence and other matters of discipline not expressly provided for by this or any other law for the time being in force.

Part XI.—The Register.

Collector to prepare and keep register.

65. The Collector shall prepare and keep all registers necessary for the purposes of this Act in the form which Government may from time to time prescribe. There shall be one register of lands and allowances in consideration whereof liability to perform service exists, and another of lands and allowances in respect of which no such liability exists.

Non-service register what to contain.

66. In the register of lands and allowances the holders whereof are exempt from service, the Collector shall specify—

(*a*) the area of the lands, the survey-number and assessment, the quit-rent leviable, and the nett revenue alienated by Government:

(*b*) the amount and nature of the cash or other allowances, and the source from which they are payable:

(*c*) the terms of the settlement under which the exemption is enjoyed:

(*d*) the names of the parties to such settlement with Government as indicated in the sanads issued to them :

(*e*) such other particulars as Government may from time to time order to be recorded.

Service-register what to contain.

67. In the register of lands and allowances in consideration whereof liability to serve still exists, the Collector shall specify—

(*a*) the area of the lands, the names of the occupants, the survey-number and assessment, the quit-rent, if any, leviable, and the nett revenue alienated by Government, the amount and nature of the cash or other allowances, the source from which they are payable, and the land and allowances assigned for the remuneration of officiators :

(*b*) the names of the heads of families and of the representative watandárs :

(*c*) whether the service is performed by one representative watandár or otherwise : if by several in successive periods, the order in which they are to succeed each other :

(*d*) the proportional share of the watan possessed by each head of family which may be expressed in annas or fractions of a rupee :

(*e*) the number of officiators required to perform the duties :

(*f*) the nature of the settlement of inferior village-watans referred to in Part X of this Act :

(*g*) such other particulars as Government may (from time to time) order to be recorded.

Registers to be corrected.

68. The registers kept under this Act shall be corrected or added to on the occasion of any change being made in accordance with the provisions of this Act in the particulars above specified.

PART XII.—MISCELLANEOUS.

Service to be performed by watandárs.

69. All watandárs of whatever denomination whose liability to serve has not been commuted are legally bound, subject to the provisions of this Act, to render such service as has been customary or as is required by law.

Records property of Government.

70. All records which have been or may be prepared by any watandár in pursuance of the duties of the office, or by order of his superior officer, or of the present or former Government, are hereby declared to be the property of Government, and the Collector is hereby empowered to demand their production.

Watandárs may sign village-records.

71. With regard to hereditary offices not inferior to that of patel or kulkarni, it is hereby declared that every head of a family shall have the privilege of signing the abstract of village-land and revenues or other village-papers which it may be customary for him to sign.

Part XIII.—Procedure and Appeals.

Evidence to be taken.

72. *Clause 1.*—It shall be lawful for the Collector or other officer conducting an investigation under this Act to take evidence, and in sections 193 and 228 of the Indian Penal Code the words "judicial proceeding" shall be taken to include any proceeding under this Act.

Clause 2.—Every person who shall have been summoned to give evidence or to produce any document in his possession, by the Collector or other officer conducting an investigation under this Act, shall be legally bound to attend, or to produce such document.

Orders under Parts III, V, VI and VII to be passed after investigation in writing.

73. *Clause 1.*—Except as hereinafter provided in clause 2 of this section, no order under Part III of this Act directing commutation of a watan, or under Part V of this Act assigning the remuneration of officiators, or under Part VI of this Act determining the custom of the watan as to service and what persons should be registered as heads of families or representative watandárs, or under Part VII of this Act, determining the periods of service, shall be passed, unless after an investigation recorded in writing and a proper opportunity afforded for the hearing of claims and the production of evidence.

In each such investigation, and in removals from office under section 58 of this Act, the Collector or other officer shall record his decision with the reasons therefor in his own handwriting.

Certain decisions passed since 1866 to be accepted in lieu of fresh investigation

Clause 2.—Unless the Governor in Council shall otherwise direct, decisions passed subsequently to the year 1866 after an investigation recorded in writing, and after a proper opportunity had been afforded for the hearing of claims and the production of evidence, and which are recorded with the reasons therefor, in the handwriting of a Collector or his assistant or deputy, shall be accepted, in so far as they may not be inconsistent with the provisions of this Act, in lieu of fresh investigation and decision under this Act for the purpose of framing the register required in section 67 thereof.

If any details necessary for the said register have not been recorded in any decision of the nature described above, but are forthcoming from the evidence taken in connection with such decision, they may be supplied from such evidence in lieu of fresh investigation for the completion of the register.

Such details as may not be forthcoming shall be obtained by such further investigation as the Collector may deem necessary.

Control of proceedings of Collector.

74. The proceedings of the Collector shall be under the general control of the Revenue Commissioner appointed under Regulation V of 1830, or other law in force for the time being, and of Government.

Mámlatdár may make investigation under Part X.

75. The Collector may require any investigation under Part X of this Act to be made by a mámlatdár or mahálkari, but the decision thereon shall be made by the Collector.

No appeal to lie, save where specially provided.

76. No appeal shall lie from any order made under section 64, clause (*e*), of this Act before final order, nor from any order registering any fact specified under section 67, clauses (*b*), (*c*), (*d*) and (*e*) of this Act, where the effect of such order is merely to register the same facts as are already recorded in the existing registers kept according to law or under the orders of Government.

Appeals.

77. Except as hereinbefore provided, one appeal only shall lie from every decision passed after investigation recorded in writing by a Collector, or by an Assistant Collector, or Deputy Collector empowered under the provisions of Bombay Act I of 1868.[a]

Such appeal, if from the decision of an Assistant Collector, or Deputy Collector so empowered, shall lie to the Collector, and shall be made within sixty days from the date of the order appealed against.

Such appeal, if from the decision of the Collector, shall lie to the Revenue Commissioner, and shall be made within ninety days from the date of the order appealed against.

In computing the above periods the time required to prepare a copy of the order or decision appealed against shall be excluded.

Copy of order to accompany petition of appeal. Appeal may be summarily rejected

78. Every petition of appeal shall be accompanied by a copy of the order or decision appealed against: and it shall be competent for the officer before whom the appeal is presented to reject the appeal if on perusal of the petition it appears to him that there is no sufficient ground for questioning the correctness of the decision, or for interfering with the order appealed against.

Government may call for proceedings

79. Government may call for and examine the record of the proceedings of any officer for the purpose of satisfying itself as to the legality or propriety of any order passed, and may reverse or modify the order as shall seem fit, or, if it seem necessary, may order a new inquiry.

Notice how to be served.

80. Service of any notice given under this Act shall be deemed to have been made by the notice being affixed in writing to the wall of the village-chaunrí or other public place in the village not less than seven days before action is required to be taken by any person thereon.

Recoveries how made.

81. All recoveries of profits from land, assessments, emoluments or penalties under this Act may be made as provided by any law for the time being in force relating to the recovery of the land-revenue.

Government to frame rules.

82. Government may frame rules not inconsistent with this Act for the guidance of its officers in cases not expressly provided for, and may from time to time modify or revoke any such rules.

Government

83. Except as is otherwise provided in section 18 of this Act, Government

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[a] Repealed by Bombay Act No. V of 1879.

shall have power, in cases where doubt exists, to determine what duties appertain to any hereditary office.

to determine duties of hereditary officers.

84. The Governor in Council may from time to time confer on any officer specially selected for the purpose all or any of the powers and duties which under this Act are required to be performed by a Revenue Commissioner or a Collector, and may authorize the delegation to any mámlatdár or mahálkari of the power to fine hereditary village-officers in sums not exceeding two rupees.

Grant of powers to special officer.

85. Nothing in this Act contained shall be deemed to affect Bombay Act VIII of 1867 or any other law for the time being in force, defining the duties and powers of village-officers or imposing penalties for misconduct, and all references in such laws to Act XI of 1843 [a] shall be taken as made to this Act.

Act not to affect Bombay Act VIII of 1867.

ACT No. III of 1875.

Received the Governor's assent on the 8th of October, 1875, and the Governor General's assent on the 20th of December, 1875, and published by the Governor on the 28th of December, 1875.

An Act for enabling Government to levy tolls on public roads and bridges in the Presidency of Bombay.

Preamble.

WHEREAS tolls have been levied in the Presidency of Bombay in accordance with Act XV of 1864 [b] since the thirtieth day of July, 1864, but doubts have arisen whether the said Act has been formally extended to the said Presidency; and whereas it is expedient to remove the said doubts and to consolidate in one Act the provisions for the levy of tolls upon public roads and bridges in the said Presidency; It is enacted as follows:—

Repeal of Act VIII of 1851.

1. Act VIII of 1851 [c] is hereby repealed in so far as it affects the Presidency of Bombay.

Act XV of 1864 deemed to have been extended to Bombay Presidency since 30th July, 1864.

2. Act XV of 1864 shall be deemed to have been extended to the Presidency of Bombay as from the thirtieth day of July, 1864, and all tolls levied within the Presidency of Bombay upon any public roads or bridges (from whatever funds the same may have been constructed) between the said thirtieth day of July, 1864, and the coming into operation of this Act, shall be deemed to have been levied under the provisions of Act XV of 1864 and to have been duly and lawfully levied and collected.

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[a] Repealed by this Act, sec. 2.
[b] See General Acts, vol II, p. 658.
[c] See General Acts, vol. I, p. 102.

Rates of tolls to be levied.

3. The Governor in Council may cause such rates of tolls, not exceeding the rates mentioned in the schedule annexed to this Act, to be levied upon any road or bridge which has been or shall hereafter be made or repaired at the expense of the Government or from funds collected under the provisions of Bombay Act III of 1869,[a] or other funds levied under the authority and subject to the general control of Government, and may place the collection of such tolls under the management of such persons as may appear to him proper; and all persons employed in the management and collection of such tolls shall be liable to the same responsibilities as would belong to them if employed in the collection of the land-revenue.

Until such rates of tolls shall be fixed by the Governor in Council, the tolls now levied shall continue to be levied by the persons under whose management the same are now collected, who shall be held to have been appointed under the provisions of this Act.

"Persons" defined.

Clause 2.—The word "persons" in this section shall include local fund committees established under Bombay Act III of 1869.

Procedure in case of non-payment of tolls.

4. In case of non-payment of any such toll on demand, the officers appointed to collect the same may in the first place seize any part of the burden or load of the carriage or animal on which the toll is chargeable, of sufficient value to defray the toll, or in the event of the burden or load being insufficient, such carriage or animal;

and if any toll remains undischarged for twenty-four hours, with the cost arising from such seizure, the case shall be brought before the officer appointed to superintend the collection of the said toll, who may sell the property seized for discharge of the toll and all expenses occasioned by such non-payment, seizure and sale, and cause any balance that may remain to be returned on demand to the owner of the property; and the said officer on receipt of the property shall forthwith issue a notice, that at noon of the next day, exclusive of Sunday or any close holiday, he will sell the property by auction:

Provided that if at any time before the sale has actually begun, the person whose property has been seized shall tender the amount of all the expenses incurred and of double the toll payable by him, the said officer shall forthwith release the property seized.

Exemptions from toll.

5. No tolls shall be paid for the passage of troops and military stores and equipages on their march, or of Police-officers on duty, or of any person or property in their custody. And it shall further be lawful for His Excellency the Governor in Council, by notification in the Government Gazette, to grant and define other exemptions from payment of the tolls levied under this Act.

Government may grant other exemptions.

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[a] See *supra*, p. 296.

Police-officers bound to assist toll-collectors.

6. All Police-officers shall be bound to assist the toll-collectors, when required, in the execution of this Act, and for that purpose shall have the same power which they have in the exercise of their ordinary Police-duties.

Penalty on unauthorized person demanding tolls, and for illegal demand

7. Every person, other than the persons appointed to collect the tolls under this Act, who shall levy or demand any toll on any public road or bridge, or for passing through any bázár situated thereon, and also every person who shall unlawfully and extortionately demand or take any other or higher toll than the lawful toll, or under colour of this Act seize or sell any property, knowing such seizure or sale to be unlawful, or in any manner unlawfully extort money or any valuable thing from any person under colour of this Act, shall be liable, on conviction before a Magistrate, to imprisonment of either description for any term not exceeding six calendar months, or to fine not exceeding rupees two hundred, any part of which fine may be awarded by the Magistrate to the person aggrieved, but this remedy shall not be deemed to bar or affect his right to have redress by suit in the civil Court of the district.

Table of tolls to be put up at gate or station.

8. A table of the tolls authorized to be taken at any toll-gate or station, legibly written or printed in English words and figures, and also in those of the vernacular language of the district, to which shall be annexed, written or printed in like manner, a statement of the penalties for refusing to pay the tolls and for taking any unlawful toll, shall be furnished by Government to the Collector of tolls, and the same shall by him be kept in a conspicuous place near such gate or station.

Collectors of tolls may compound for tolls.

9. Any person entrusted with the management of the collection of tolls under this Act, may in his discretion compound for any period, not exceeding one year, with any person for a certain sum to be paid by such person for himself or for any vehicle or animal kept by him, in lieu of the rates of tolls specified in the schedule to this Act.

Application of tolls.

10. The nett proceeds of the tolls levied under this Act shall be applied wholly to the construction, repair and maintenance of roads and bridges within the Presidency of Bombay :

Provided that the nett proceeds of tolls levied on roads or bridges constructed by or belonging to any local fund committee shall be applied to the construction and maintenance of roads or bridges in the district under the superintendence of such local fund committee.

SCHEDULE.

	Rs.	A.	P.
On every four-wheeled carriage on springs	1	0	0
On every two-wheeled carriage on springs	0	8	0
On every ekka or hackery on springs	0	2	0
On every cart and hackery not on springs drawn by 8 bullocks, buffaloes, horses, ponies, asses or mules, if laden ...	1	0	0
Ditto if not laden...	0	8	0
On every cart and hackery not on springs drawn by 6 bullocks, buffaloes, horses, ponies, asses or mules, if laden ...	0	12	0
Ditto if not laden ...	0	6	0
On every cart and hackery not on springs drawn by 4 bullocks, buffaloes, horses, ponies, asses or mules, if laden ...	0	8	0
Ditto if not laden ...	0	4	0
On every cart and hackery not on springs drawn by 2 bullocks, buffaloes, horses, ponies, asses or mules, if laden ...	0	4	0
Ditto if not laden ...	0	2	0
Buffaloes, or bullocks, per head, if laden	0	1	0
Ditto ditto if not laden	0	0	6
On every elephant	1	8	0
On every camel, if laden	0	4	0
Ditto. if not laden	0	2	0
On every horse, if laden or ridden	0	1	6
Ditto unladen or led	0	0	9
On every pony or mule, if laden or ridden	0	0	9
Ditto unladen or led	0	0	6
On every ass, if laden or ridden	0	0	6
Ditto unladen or led	0	0	3
On every sheep, or goat, or pig	0	0	1
On every palanquin, dúlí, pálná or tonjon, with 8 bearers ...	1	0	0
Ditto ditto ditto with 6 bearers ...	0	12	0
Ditto ditto ditto with 4 bearers ...	0	8	0
On every foot-passenger with the special sanction of Government on bridges or hill-roads	0	0	3

Explanation I.—Animals drawing any vehicle for which toll can be demanded are not to be also charged with toll.

Explanation II.—No second toll shall be levied on the same carriage or animal returning on the same day.

ACT No. I of 1876.

Received the Governor's assent on the 12th of January, 1876, and the Governor General's assent on the 1st of March, 1876, and published by the Governor on the 9th of March, 1876.

An Act to amend Bombay Act VIII of 1867.

Preamble. WHEREAS doubts have arisen whether a Police-patel, or other village-police-servant, may lawfully be suspended from office either during inquiry into alleged misconduct, or by way of punishment for misconduct, and it is expedient to remove such doubts; It is enacted as follows:—

Short title. 1. This Act may be cited as "The Bombay Village Police Act Amendment Act, 1876."

Section substituted for section 9. 2. The following section shall be substituted for section 9 of the Bombay Village Police Act, 1867 (namely):—

[See *supra*, *p.* 288.]

Section added after section 9. 3. After section 9 of the said Act the following section shall be inserted:—

[See *supra*, *p.* 288.]

ACT No. II of 1876.

Received the Governor's assent on the 15th of September, 1876, and the Governor General's assent on the 14th of October, 1876, and published by the Governor on the 26th of October, 1876.

An Act to amend the law relating to the Land-revenue-administration of the city of Bombay.

Preamble. WHEREAS it is expedient to amend the law relating to the assessment and collection of the land-revenue, to provide against encroachments upon public property, to ensure the preservation of survey-boundary-marks, and otherwise to improve the existing land-revenue-administration in the city of Bombay; It is enacted as follows:—

PART I.—Preliminary.

Short title. 1. This Act may be cited as "The Bombay City Land Revenue Act, 1876."

Extent. It extends only to the city of Bombay.

Regulation XIX of 1827 repealed. 2. So much of Regulation XIX of 1827 as has not been already repealed is hereby repealed.

All references made in any Act or Regulation to any part of the said

Regulation XIX of 1827 hereby repealed, shall be read as if made to the corresponding portion of this Act.

And all rules prescribed, appointments made, powers conferred, orders issued, and notifications published under the said Regulation, and all other rules (if any) now in force and relating to any of the matters hereinafter dealt with, shall (so far as they are consistent with this Act) be deemed to have been respectively prescribed, made, conferred, issued and published hereunder.

And all proceedings now pending, which have been commenced under any part of the said Regulation XIX of 1827 hereby repealed, shall be deemed to have been commenced under this Act, and shall hereafter be conducted in accordance with the provisions of this Act.

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context—

"Collector."

(1) the word "Collector" means the Collector of Bombay;

"Land-revenue."

(2) the words "land-revenue" signify any sum of money legally claimable by Government from any person on account of any land, or interest in, or right exercisable over, land held by, or vested in, him, under whatever designation such sum may be payable;

"Survey-boundary-mark."

(3) the words "survey-boundary-mark" mean, primarily, any iron or other mark set up by the officers who conducted the Bombay city-survey hereinafter described, and include any such new mark that may hereafter be set up by the Collector or under his orders, according to the provisions of this Act;

"Superior holder."

(4) the words "superior holder" signify the person having the highest title under Government to the land in respect of which land-revenue is payable.

PART II.—The Collector of Bombay and his Subordinates.

Chief control in revenue-matters.

4. The chief controlling authority in all matters connected with the land-revenue is vested in the Collector of Bombay subject to the Governor in Council.

Appointment and duties of Collector of Bombay.

5. The Collector of Bombay shall be appointed by the Governor in Council, and shall exercise the powers and discharge the duties conferred and imposed on him by this Act, or by any other law for the time being in force, and, so far as is consistent therewith, all such other powers or duties as may from time to time be prescribed by the Governor in Council.

His assistants and establishment how appointed.

6. The Collector shall have as many assistants and such other establishment subordinate to him as the Governor in Council, under the general control of the Governor General in [a] India in Council, may from time to time sanction,

[a] *Sic.* Read "of."

and their appointment shall be made in such manner as the Governor in Council may direct.

The duties of the said assistants and other subordinates of the Collector shall be such as the Collector, subject to the orders of Government, may from time to time prescribe. Their duties.

Subject to the previous sanction of Government the Collector may delegate any of his powers under this Act, or under any law which the Governor in Council is able to repeal or alter, to any of his assistants or other subordinates, and may at any time cancel such delegation. and powers.

7. The Collector shall have power, subject to such rules as may from time to time be prescribed by Government, to fine, reduce, suspend or dismiss any of his assistants or other subordinates. Punishment for misconduct.

PART III.—Assessment and Collection of Land-revenue.

8. It shall be the duty of the Collector, subject to the orders of Government, to fix and to levy the assessment for land-revenue. Collector to fix and levy land revenue.

When there is no right on the part of the superior holder in limitation of the right of Government to assess, the assessment shall be fixed at the discretion of the Collector subject to the control of Government.

When there is a right on the part of the superior holder in limitation of the right of Government, in consequence of a specific limit to assessment having been established and preserved, the assessment shall not exceed such specific limit.

9. The settlement of assessment of each portion of land to the land-revenue shall be made with the superior holder of the same. Settlement of assessment with whom to be made.

If the said superior holder be absent and have left no known authorized agent in Bombay, or if there be a dispute as to who is entitled to be considered the superior holder of the land, the settlement may be made with the person actually in possession of the land; and any assessment so fixed shall be binding upon the rightful superior holder of the land.

Any payment made by the person in possession in accordance with the provisions of this Act shall be deemed to have been made on behalf of the superior holder.

10. The superior holder of land, or, in his absence, the person actually in possession, shall be liable in person and property for the land-revenue due upon the holding. Liability for land-revenue.

11. The claim of Government to any moneys recoverable under the provisions of this Act shall have precedence over any other debt, demand or claim whatsoever, whether in respect of mortgage, judgment, decree, Claims of Government to have precedence.

execution, attachment or otherwise however, against any land, or the superior holder thereof.

Collector to direct to whom, and when, and where, revenue to be paid.

12. Subject to such orders as may be passed by the Governor in Council, the Collector shall from time to time give orders and make known the same by notice to be served on all superior holders of land paying revenue, or, in their absence, persons in possession, regulating the persons, places and times to whom and within which the revenue payable in respect of any land shall be paid.

On default in payment, defaulter's property may be attached and sold.

13. If any land-revenue is not paid at, or within, the time when it becomes payable, and the superior holder or person in possession, as the case may be, shall, for the space of twenty days after service of written notice of demand of payment, fail to discharge the revenue due, it shall be lawful for the Collector to levy the same by attachment and sale of the land on which the revenue is due, or of any other property, moveable or immoveable, of the defaulter.

Sales how held.

Such sales shall be by public auction, and shall not take place until at least fifteen days after notice thereof shall have been published in the *Bombay Government Gazette*.

Defaulters may be arrested and confined.

If the sale of the defaulter's property shall not produce satisfaction of the demand, it shall be lawful for the Collector to cause him to be apprehended and confined in the civil jail under the rules in force at the Presidency for the confinement of debtors, for which purpose a certificate of demand under the Collector's signature sent with the defaulter shall be the sheriff's sufficient warrant, equally with the usual legal process in ordinary cases of arrest in execution of judgment for debt:

Provided, however, that such imprisonment shall cease at any time upon payment of the sum due, and that it shall in no case exceed one day for each rupee of the said sum.

Collector's decision to be acted on in first instance; but may be stayed on security being furnished.

14. The Collector's decision upon any question arising out of the provisions of sections 8 to 13 of this Act shall, unless superseded by the Revenue Judge, be binding upon all persons whom it may concern, and shall be acted upon accordingly; but the Collector's decision shall be stayed on any such person giving security to the satisfaction of the Collector, that he will, within thirty days from the date when such decision was made known to him, institute a suit before the Revenue Judge for the purpose of contesting the legality of the Collector's decision, and will fulfil the decree that may be passed against him, and will pay all costs and interests which may be so decreed; or that, if he fail to file such suit as above specified, he will, when required, pay the amount demanded.

Compulsory

15. All compulsory process against a defaulter shall cease on his paying

or tendering the amount demanded of him under protest to the officer executing such process; or

process to cease on payment under protest, or on instituting suit and furnishing security.

on his instituting a suit before the Revenue Judge to contest the legality of the demand, and furnishing security satisfactory to the Collector, or Revenue Judge, that he will, pending the decision of the said suit, neither quit the jurisdiction, nor remove, nor transfer any of his property therein without providing to the satisfaction of the Collector, or of the Revenue Judge, for the execution of the decree.

Fees in respect of warrant for attachment and sale of defaulter's property. Additional fee.

16. Fees shall be payable according to the table in the schedule A hereunto annexed, on all warrants issued under the provisions of section 13 of this Act for the attachment and sale of the property of defaulters, by the person in respect of whose property such warrants are issued, and an additional fee of four annas per diem shall be paid in like manner in respect of each peon employed, whenever the property distrained is placed in charge of any peon or peons.

PART IV.—The Revenue Judge.

Revenue Judge. Duties and powers.

17. The Senior Magistrate of Police shall be Revenue Judge.

The Revenue Judge shall decide all suits brought before him against the Collector, or any person on his establishment, on account of land-revenue, or of acts done in their official capacities by the Collector, or any of his assistants or other subordinates.

Suits before Revenue Judge how conducted.

18. All such suits shall be commenced and the trial thereof shall be conducted according to the provisions of the general law of civil procedure for the time being in force in a district Court.

Appeals how, and to whom, to lie.

An appeal shall lie against a decree passed by the Revenue Judge in any such suit to the High Court on its appellate side, and shall follow the same rules as would be applicable under any law for the time being in force to appeals from the decrees of a district Court in original suits tried by it.

Decrees how executed.

The decree in any such suit, whether it be that of the Revenue Judge, or of the appellate authority, shall, if it be against the Collector, be fulfilled by the Collector.

If it be against the plaintiff, it may be enforced by the Collector under section 13 of this Act as an established revenue-demand:

Provided, however, that execution shall in either case be stayed if an appeal be made, and on the plaintiff's furnishing security similar to that described in section 15 of this Act, if the appeal be brought by him.

PART V.—The Bombay City-survey and Boundary-marks.

Bombay city-survey recognized.

19. The survey made under the authority of Government during the years 1865 to 1872 shall be called "The Bombay City Survey;" and the demarcation of lands then made, and all the records of the said survey shall be taken as *primâ facie* evidence for all proceedings under and for all the purposes of this Act:

Provided that the Collector may, on the application of the parties interested in such lands, and shall, in pursuance of a decree or order of a competent Court, cause any alteration or correction to be made of any such demarcation of lands, or of any entry in any such record.

Responsibility for maintenance and repair of boundary-marks.

20. Every superior holder of land shall be responsible for the maintenance and good repair of the survey-boundary-marks of his holding, and for any expenses not exceeding five rupees for each mark, reasonably incurred on account of the same by the Collector in cases of alteration or removal.

Collector or subordinates may enter upon lands.

21. It shall be lawful for the Collector or for any of his assistants or other subordinates in that behalf duly authorized by writing under the hand of the said Collector, to enter upon any lands for the purpose of inspecting the survey-boundary-marks erected thereon, or of altering, renewing or repairing such marks.

Collector may require superior holders to renew or repair survey-marks Requisition how made.

22. In the event of any survey-boundary-mark being destroyed, defaced, injured or removed, it shall be lawful for the Collector to cause to be served on the superior holder, or in his absence the person in possession of any land of which such mark designates the boundary, a requisition in writing signed by the said Collector, calling on such superior holder or person in possession to renew or repair the said mark, at his own expense, within fifteen days from the date of the service of such requisition.

On default, Collector or assistants may enter and renew or repair.

Charge for renewal or repair.

23. If the said survey-boundary-mark be not renewed or repaired, within the said period, to the Collector's satisfaction, it shall be lawful for the Collector or any of his assistants or other subordinates, or other person duly authorized as hereinbefore mentioned, to enter upon any land to which the said mark appertains, and to renew or repair it; and for each such mark so renewed or repaired, it shall be lawful for the Collector to charge each superior holder or person in possession, the boundary of whose land is designated by any such mark, such sum, not exceeding rupees ten in the whole, as he may deem fit.

PART VI.—Government Lands and Foreshore.

Right of Government

24. All unoccupied lands within the city of Bombay, and every unoccupied portion of the foreshore below high-water mark, shall be deemed, and are

hereby declared to be, the property of Government, subject always to the rights of way, and all other rights of the public legally subsisting. to lands and foreshore.

25. It shall be lawful for the Collector, with the sanction of Government, to dispose of any Government-lands or foreshore, in such manner and subject to such conditions as he may deem fit. Such lands and foreshore how disposed of.

PART VII.—Encroachments.

26. In the event of any encroachment being made after the passing of this Act on any Government-lands or foreshore, it shall be lawful for the Collector or his assistants, or other subordinates, duly authorized in this behalf by writing under his hand, to summarily abate or remove any such encroachment. Power to abate encroachments on Government-land or foreshore.

But it shall be competent to the Collector, with the previous sanction of Government, and if the person making the encroachment so desire, to charge the said person a sum not exceeding five times the value of the land so encroached upon and to fix an assessment not exceeding five times the ordinary annual land-revenue thereupon, and then to cause the said land to be entered in his records in the name of the said person. Or to charge for and assess land, and then enter it in name of encroacher.

27. For the purposes of the preceding section, the value of land that has been encroached upon shall be fixed by the Collector according to the market-value of similar land in the same neighbourhood at the time of such valuation. Value and land-revenue how calculated.

And the annual revenue of any such land shall be assessed at the same rate as the land-revenue of similar land in the vicinity.

28. In the case of any encroachment made within twenty years before the passing of this Act, the Collector may, with the sanction of Government, charge the person who made such encroachment, or who is in occupation of the land so encroached upon, a sum not exceeding double the value of the said land, and fix an assessment not exceeding double the ordinary annual land-revenue thereon, and recover arrears of land-revenue at the same rate from the date when the encroachment was made. Encroachments made before passing of Act how dealt with.

29. For the purposes of the last preceding section, the amount by which any holding shall have been shown by the Bombay City Survey to exceed the area of such holding as entered in the Collector's previous records shall *primâ facie* be held to be an encroachment; Encroachments before passing of Act defined.

and the value and land-revenue payable in respect of the same, shall be calculated according to the market-value of similar land in the neighbourhood, and the land-revenuae chrgeable in respect of the excess shall be calculated at the same rate at which the rest of the holding has been assessed. Value and land-revenue payable in respect thereof, how calculated.

In case there has been no such holding, the assessment shall be made at such rate as the Collector, with the sanction of Government, may fix.

PART VIII.—Transfer of Lands, &c.

Notice of transfer of title to lands, &c., to be given to Collector.

30. Whenever the title to any land, house or other immoveable property, subject to the payment of land-revenue to Government, shall be transferred or assigned, the person transferring or assigning the same, and the person to whom the same shall be transferred or assigned, shall respectively cause notice of such transfer or assignment to be given to the Collector;

Notice when to be given.

such notice shall be given within twenty days after execution of the instrument of transfer or assignment, or after its registration, if it be registered, or after the transfer or assignment is effected, if no instrument is executed.

Transferee by death to give notice within one year.

In the event of the death of any person in whose name the title to any property is entered in the Collector's records, the person to whom such title shall be transferred as heir or otherwise shall cause notice thereof to be given to the Collector within one year from such death.

Form of notice.

31. The notice shall be in the form either of schedule B or schedule C annexed to this Act, as the case may be, and shall state clearly all the particulars required by the said form.

Accompaniments.

It shall be accompanied, whenever the Collector shall deem fit so to require, by the instrument of transfer, if any, and by a certificate that public notice has been given of the transfer or assignment by beat of batáki.

Penalty for neglect to give notice.

32. Every person neglecting to give the notice required by the two last preceding sections within the time therein specified, shall be liable at the discretion of the Collector to a fine not exceeding ten rupees in case of holdings paying less than one rupee as land-revenue, and in no other case exceeding rupees one hundred.

Person transferring title and omitting to give notice, to continue liable for revenue.

33. Every person transferring the title to any land, house or other immoveable property subject to the payment of land-revenue to Government, without giving the notice required by sections 30 and 31 of this Act, shall continue liable to Government for the payment of all land-revenue accruing due in respect thereof, until he shall have given such notice or until the requisite transfer shall have been effected in the Collector's records.

But nothing contained in this section shall be held to diminish the liability of the land, house or other immoveable property to attachment or sale under the provisions of section 13 of this Act.

Proceeding in case of dispute as to entry or transfer.

34. Whenever any dispute or question shall arise with respect to the making or completion of any entry or transfer in the records of the Collector, of or relating to any land, house or other immoveable property subject to the

payment of land-revenue to Government, the Collector shall summon all the parties interested in such entry or transfer, and shall call for such evidence, and examine such witnesses, as he shall consider necessary, and shall thereupon decide summarily what entry shall be made in his records in respect of such land, house or other immoveable property.

If at any time a certified copy shall be produced to the Collector of an order of a competent Court determining the title to any such land, house or other immoveable property, the Collector shall amend his records in conformity with such order.

Registration or transfer not to affect right of Government.

35. The registration or transfer of any title in the Collector's records shall not be deemed to operate so as in any way to affect any right, title or interest of Government in the land, house or other immoveable property in respect of which any such transfer is made or registered.

PART IX.—Procedure.

Law applied to summonses, &c.

36. The provisions of the Civil Procedure Code in force for the time being with respect to the issue of summonses and commissions, and the compelling the attendance of witnesses, and for their remuneration, in suits before a district Court, shall apply to all persons summoned to appear before the Collector under the provisions of this Act.

PART X.—Levy of House-rent, Fees, Penalties, &c.

Dues leviable as revenue-demands.

37. All arrears of rent payable by any person in respect of the occupation of any house the property of Government, and all fees, fines and penalties chargeable under this Act, and all moneys leviable under the provisions of this Act on account of the value of any land, or on account of the alteration, removal, renewal or repair of survey-boundary-marks, shall be realized in the same manner as other revenue-demands, under the provisions of section 13 of this Act.

Power to Collector of Bombay to assist other Collectors in realization of dues.

38. It shall be lawful for the Collector of Bombay to levy, in the same way as any arrear of land-revenue due under this Act, any sum certified by the Collector, or Assistant, or Deputy Collector of any district or collectorate in the Presidency of Bombay to be due and recoverable as an arrear of land-revenue, from any person residing or owning property in the city of Bombay, by whom the same is so certified to be due.

PART XI.—Miscellaneous.

Collector to

39. It shall be the duty of the Collector to prepare and keep in such form

keep registers and rent-rolls.

as Government may from time to time sanction, a separate register and rent-roll of every description of land according to the nature and terms of the tenure on which such land is held.

Maps, land-registers and records where to be kept.

To be open to inspection.

Extracts and copies to be given.

40. Subject to such rules and the payment of such fees as the Governor in Council may from time to time prescribe in this behalf, all maps and land-registers, and other records of the Bombay city-survey, and all records concerning the land or the land-revenue, shall be kept in the Collector's office, and shall be open to the inspection of the public at reasonable hours; and certified extracts from such maps, registers and records, or certified copies thereof, shall be given to all persons applying for the same.

Power to frame and vary rules for guidance of Collector, &c., and for matters not provided for.

41. It shall be lawful for the Governor in Council from time to time to frame, and from time to time to vary or repeal, rules not inconsistent with the provisions of this Act for the guidance of the Collector and his assistants and other subordinates in the discharge of their duties, or for any other purpose connected with the subject-matter of this Act, not expressly provided for therein.

Any of such rules as the Governor in Council may deem fit may be published, and when published shall, until cancelled or amended by the Governor in Council, have the force of law.

SCHEDULE A.

Table of Fees payable under the provisions of section 16 of this Act:—

Sum distrained for.	Fee.	
	Rs.	As.
Not exceeding rupees 5	0	8
Over rupees 5 and not exceeding rupees 10 ...	1	0
„ 10 „ „ 15 ...	1	8
„ 15 „ „ 20 ...	2	0
„ 20 „ „ 25 ...	2	8
„ 25 „ „ 30 ...	3	0
„ 30 „ „ 35 ...	3	8
„ 35 „ „ 40 ...	4	0
„ 40 „ „ 45 ...	4	8
„ 45 „ „ 50 ...	5	0
„ 50 „ „ 60 ...	6	0
„ 60 „ „ 80 ...	7	8
„ 80 „ „ 100 ...	9	0
Upwards of rupees 100	10	0

SCHEDULE B.

(Form of notice of transfer to be given under section 30 of this Act, when the transfer has taken place otherwise than by instrument.)

To

THE COLLECTOR OF BOMBAY.

I, *A. B.*, hereby give notice, as required by section 30 of the Bombay City Land Revenue Act, of the following transfer of property :—

Date of Notice.	Name in which the property is at present entered in the Collector's records.	To whose name it is to be transferred.	Description of the Property.						
			Of what it consists.	Situation.	Collector's No.	Bombay City Survey No.	Dimensions of land.	Boundaries.	Remarks

(*Signed*) *A. B.*

SCHEDULE C.

(*Form of notice of transfer to be given under section 30 of this Act, when the transfer has been effected by instrument.*)

THE COLLECTOR OF BOMBAY.

I, *A. B.*, hereby give notice, as required by section 30 of the Bombay City Land Revenue Act, of the following transfer of property :—

Date of notice.	Date of instrument.	Name of vendor or assignor.	Name of purchaser or assignee.	Amount of consideration.	Description of the Property.						If instrument has been registered, the date of registration.	Remarks.
					Of what it consists.	Situation.	Collector's No.	Bombay City Survey No.	Dimensions of land.	Boundaries.		

(*Signed*) *A. B.*

ACT No. III of 1876.

Received the Governor's assent on the 9th of December, 1876, and the Governor General's assent on the 16th of February, 1877, and published by the Governor on the 22nd of February, 1877.

An Act to consolidate and amend the law relating to the powers and procedure of Mámlatdárs' Courts.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to the powers and procedure of Mámlatdárs' Courts; It is hereby enacted as follows :—

Short title. 1. This Act may be called "The Mámlatdárs' Courts Act, 1876."

Extent. It extends to the whole of the Presidency of Bombay, except the city of Bombay and Aden.

Repeal of Acts. 2. Clause 2, section I, of Act XVI of 1838 and Bombay Act V of 1864 are repealed.

All references made in any Act passed by the Governor of Bombay in Council or in any Act of the Governor General in Council passed prior to the coming into operation of the Indian Councils' Act, 1861, to the said portion of Act XVI of 1838, or to Bombay Act V of 1864, shall be read as if made to the corresponding portion of this Act.

Interpretation-clause. 3. In this Act, unless there be something repugnant in the subject or context—

"Mámlatdár." (1) the word "Mámlatdár" shall include any Revenue-officer ordinarily exercising the powers of a Mámlatdár and any other person who may be specially authorized by the Governor in Council to exercise the powers of a Mámlatdár under this Act, or who at the time of the passing of this Act is duly authorized to exercise the powers of a Mámlatdár under Bombay Act V of 1864:

"Plaintiff" "Defendant." (2) the words "plaintiff" and "defendant" shall include a pleader duly appointed to act on behalf of either, and the recognized agent of a plaintiff or defendant as defined in section 37 of the Code of Civil Procedure (Act X of 1877).[a]

Powers of Mámlatdárs' Courts. 4. Every Mámlatdár shall preside over a Court, which shall be called a Mámlatdár's Court, and which shall have power within such territorial limits as may from time to time be fixed by the Governor in Council to give immediate possession of lands, premises, trees, crops or fisheries, or of any profits

[a] See Act No. X of 1877, sec 3.

of the same, or to restore the use of water from wells, tanks, canals or water-courses to any person who shall have been dispossessed or deprived thereof otherwise than by due course of law, or who shall have become entitled to the possession or restoration thereof by reason of the determination of any tenancy, or other right of any other person in respect thereof.

The said Court shall also have power within the said limits, when any person is disturbed or obstructed, or when an attempt has been made to disturb or obstruct any person, in the possession of any lands, premises, crops, trees or fisheries, or in the use of water from any well, tank, canal or water-course, or of the use of roads or customary ways to fields, to issue an injunction to the person causing, or who has attempted to cause, such disturbance or obstruction, requiring him to refrain from causing or attempting to cause any such further disturbance or obstruction.

Suits to be filed within six months.

But no suit shall be entertained by a Mámlatdár's Court unless it be brought within six months from the date on which the cause of action arose.

Cause of action.

The cause of action shall be deemed to have arisen on the date on which the dispossession, deprivation, determination of tenancy or other right occurred; or on which the disturbance or obstruction, or the attempted disturbance or obstruction, first commenced.

Illustration I.

A lets *B* his field to cultivate for a specific period of one or more years. *B* refuses to resign possession after the expiration of that period. *A* can sue for possession in the Mámlatdár's Court at any time within six months from the date of the expiration of the said period.

Illustration II.

B is a yearly tenant of *A*, who gives him notice to vacate, as he is bound to do under Bombay Act I of 1865,[a] section 43, clause 2, at least six months before the commencement of the next cultivating season. At the commencement of the next cultivating season *B* refuses to vacate. *A* can sue *B* in the Mámlatdár's Court at any time within six months from the commencement of the next cultivating season.

Illustration III.

A allows *B* the use of water from his well, or from his water-course, for a specific period, at the expiration of which *B* continues to take water from the

[a] See *supra*, p. 239

well or water-course without *A's* consent. *A* may sue *B* in the Mámlatdár's Court at any time within six months from the expiration of the said period to obtain an injunction to stop *B* from taking the water.

Illustration IV.

A and *B* hold lands adjacent to a पाट, or पांस, or similar artificial water-course, which has hitherto been exclusively used by *B*. *A* draws water therefrom. *B* may sue in the Mámlatdár's Court at any time within six months from the date on which *A* commences to take the water, for an injunction to prevent *A* from so doing.

Suits commenced by plaint. Contents.

5. All suits under this Act shall be commenced by a plaint, which shall be presented to the Mámlatdár in open Court by the plaintiff, and which shall contain the following particulars :—

(1) the name, religion, caste, profession and place of abode of the plaintiff :

(2) the name, religion, caste, profession and place of abode of the defendant :

(3) the nature and situation of the property of which, or of the profits of which, possession or use is sought, or the nature of the injunction to be granted, as the case may be :

(4) the date on which the cause of action arose :

(5) the circumstances out of which the cause of action arose :

(6) a list of the plaintiff's documents, if any, or of his witnesses, and what evidence is required from each witness, and whether such witnesses are to be summoned to attend, or whether the plaintiff will produce them on the day and at the place to be appointed according to section 11 of this Act.

Plaint to be subscribed and verified.

6. When the plaint is presented, the Mámlatdár shall require the plaintiff to subscribe and verify the plaint in his presence, in open Court, in the manner following, or to the like effect :—

"I, *A. B.*, the plaintiff, do declare that what is stated in this plaint is true to the best of my information and belief."

Endorsement by Mámlatdár. Procedure in case plaintiff cannot write.

7. The Mámlatdár shall endorse the plaint to the effect that it was duly subscribed and verified. In case the plaintiff cannot write, the verification may be written for him in open Court, and the Mámlatdár shall, in such case, record that the verification was made in his presence at the request of the plaintiff, who affixed his mark to his name in token of the authenticity of the verification.

Amendment of plaint.

8. If the plaint do not contain the several particulars hereinbefore required to be specified therein, or if it contain particulars other than those specified, whether relevant to the plaint or not, or if the statement of particulars be

unnecessarily prolix, the Mámlatdár may order the plaint to be amended within three days from the date of such order.

Rejection of plaint.

9. If the plaintiff decline to subscribe or verify the plaint as hereinbefore required, or to amend the same as directed by the Mámlatdár, or if it appear upon the face of the plaint, or after questioning the plaintiff, that the cause of action arose more than six months before the plaint was presented, the Mámlatdár shall reject the plaint.

Return of plaint.

10. If it appear to the Mámlatdár that the subject of the plaint is not within his jurisdiction, he shall return the plaint in order to its being presented in the proper Court.

Procedure when plaint admissible.

11. If a plaint is admissible, the Mámlatdár shall receive and file it. He shall then appoint a convenient day and place for the trial of the case. The plaintiff shall be required to appear with his documents and witnesses on the day and at the place appointed, of which ten days' notice in the form of schedule A shall be issued at the plaintiff's expense to the defendant.

The date to be fixed for the trial shall not be earlier, except by consent of both parties, than ten days, nor, except for unavoidable reasons, later than fifteen days, from the day on which the notice is issued.

Attendance of witnesses.

12. If either party require his witnesses to be summoned to appear on the day and at the place appointed, the Mámlatdár shall issue summonses for that purpose. The payment of the cost incurred in thus procuring the attendance of witnesses shall be regulated in accordance with the rules that may from time to time be made by the High Court in regard to the payment of witnesses.

If plaintiff makes default, plaint to be rejected with costs.

13. If the plaintiff fails to attend with his proofs, or omits to adopt measures to procure the attendance of his witnesses on the day and at the place appointed, the Mámlatdár shall reject the plaint with costs.

If defendant does not appear, case to be heard *ex parte*.

If the defendant fails to attend, and the Mámlatdár is satisfied from the evidence before him that the notice has been duly served on the defendant, and in sufficient time to enable the defendant to appear and answer on the day fixed in the notice, he shall proceed to hear the plaint *ex parte:*

But case may be reheard on sufficient cause being shown.

Provided that if either party satisfy the Mámlatdár at any time within fifteen days from the date of the plaint being thus rejected, or of such *ex parte* decision, that he was prevented by some unavoidable circumstance from being present, or from procuring the attendance of his witnesses, it shall be lawful for the Mámlatdár to re-hear the case, a notice in the form of schedule B being issued, at the applicant's expense, to the opposite party.

When proceedings may be adjourned.

14. If any witnesses who have been duly summoned fail to attend on the day and at the place appointed, the Mámlatdár may, if he consider there is

sufficient reason after taking the evidence of those that are present, adjourn the hearing of the suit from time to time till the attendance of the witnesses can be enforced

The provisions of section 13 shall apply on any date to which the proceedings may be adjourned under this section, as if such date were the day originally fixed for the hearing

Points to be decided by mamlatdár at hearing

15 On the day appointed the Mámlatdár shall proceed to hear all the evidence that is then and there before him, and to try the following issues, namely —

(*a*) If the plaintiff avers that he has been unlawfully dispossessed of any property or deprived of any use—

(1) whether the plaintiff or any person on his behalf or through whom he claims was in possession or enjoyment of the property or use claimed up to any time within six months before the suit was filed

(2) whether the defendant is in possession at the time of the suit, and if so whether he obtained possession otherwise than by due course of law.

(*b*) If the plaintiff avers that he is entitled to possession of any property or restoration of any use by reason of the determination of any tenure or other right of the defendant in respect thereof —

(1) whether the defendant is in possession of the property, or in the enjoyment of the use by a right derived from the plaintiff or from any person through whom he claims

(2) whether such right has determined at any time within six months before the suit was filed.

(*c*) If the plaintiff avers that he is still in possession of the property, or in the enjoyment of the use, but that the defendant disturbs or obstructs, or has attempted to disturb or obstruct, him in his possession or use—

(1) whether the plaintiff or any person in his behalf is actually in possession or enjoyment of the property or use claimed

(2) whether the defendant is disturbing or obstructing, or has attempted to disturb or obstruct, him in such possession or enjoyment

(3) whether such disturbance or obstruction, or such attempted disturbance or obstruction first commenced within six months before the suit was filed

Mámlatdár's award, if in favour of plaintiff.

If the Mámlatdár's finding upon these issues be in favour of the plaintiff, he shall make such order as the circumstances of the case shall appear to him to require, provided that the same be not in excess of the powers vested in him by section 4 of this Act.

In defendant's favour.

If his finding be in favour of the defendant, he shall reject the plaint.

Costs to be awarded.

In either case the costs of the suit, including the costs of execution, shall follow the decree.

Mámlatdár's order to be endorsed on plaint.

16. Every order of the Mámlatdár, whether for rejecting or returning a plaint, or whether for allowing or disallowing the claim, shall be endorsed by the Mámlatdár on the plaint, who shall also place on record his reasons for the same.

Mámlatdár's award how executed.

17. If the Mámlatdár's decision be for awarding possession or restoring a use, he shall issue an order to the village-officers to give effect thereto.

If it be for granting an injunction, he shall cause the same to be prepared in the form of schedule C, and shall deliver or tender the same then and there to the defendant, if he be present, and if he be not present, shall send it to the village-officers to be served upon him.

When the Mámlatdár awards costs, such costs, together with the costs of execution, shall be recovered from the party in person, and in the event of non-payment, by the attachment and sale of his property.

Possession to be given without prejudice to rights of parties.

18. The party to whom the Mámlatdár shall give immediate possession, or restore a use, or in whose favour an injunction has been granted, shall continue in possession or use until ousted by a decree or order of a civil Court:

Provided that nothing in this section shall prevent the party against whom the Mámlatdár's decision is passed from recovering by a suit in the civil Court mesne profits for the time he may be kept out of possession of any property, or out of enjoyment of any use:

Provided further that in any subsequent suit or other proceeding in the ordinary civil Courts between the same parties, or other persons claiming under them, the Mámlatdár's decision respecting the possession of any property, or the enjoyment of any use, shall not be held to be conclusive.

Bar of appeal.

19. There shall be no appeal from any order passed by a Mámlatdár under this Act.

Punishment for false verification of plaint.

20. If any plaint verified under this Act shall contain any statement which the plaintiff shall know or believe to be false, or shall not know or believe to be true, such plaintiff shall be subject to punishment according to the provision of any law for the time being in force for the punishment of persons intentionally giving or fabricating false evidence.

Limitation of suits.

21. Any suit instituted by any person bound by any order made under this Act, or by any one claiming under such person, shall be dismissed, although limitation has not been set up as a defence, unless it has been instituted within three years from the date of the final order in the case.

SCHEDULE A.

(*Form of Notice to be issued to the Defendant under section 11*)

No. OF SUIT.

In the Court of the Mámlatdár of

Plaintiff.

Defendant.

To the defendant—(*name, religion, caste, profession and address*).

WHEREAS (*here enter the name, religion, caste, profession and address of the plaintiff*) has instituted a suit in this Court against you (*here state the particulars of the plaint*), you are hereby summoned to appear in this Court at the village of in person or by duly authorized agent, on the day of at o'clock, to answer the above-named plaintiff; and as the plaint will be finally disposed of on that day, you must adopt measures to produce your documents and procure the attendance of your witnesses at the hour and place above appointed; and you are hereby required to take notice that, in default of such appearance at the before-mentioned time and place, the suit will be heard and determined in the absence of yourself or your agent.

(*Signed*)

Mámlatdár.

Note.—If you require your witnesses to be summoned by the Court, you should make an application to that effect to the Court without delay, so as to allow of the service of the summonses a reasonable time before the within-mentioned date.

SCHEDULE B.

(*Form of Notice to be issued under section 13.*)

No. OF SUIT.

In the Court of the Mámlatdár of

Plaintiff.

Defendant.

To plaintiff (*or* defendant, *as the case may be*) inhabitant of

WHEREAS, in the suit above specified, instituted in this Court by the said

plaintiff the Court ordered on the day of last that and the said plaintiff (*or* defendant, *as the case may be*) has, under date the day of , applied to this Court to re-hear the case, and the Court has granted his said application.

This is to give you notice that the said suit will be re-heard and determined on the day of at o'clock, at the village of , at which time and place you must take measures to produce your documents and procure the attendance of your witnesses, and you are hereby required to take notice that, in default of your appearance personally or by agent at the above-mentioned time and place, the suit will be re-heard and determined in your absence.

Dated this day of 187 .

(*Signed*)

Mámlatdár.

Note.—If you require your witnesses to be summoned by the Court, you should make an application to that effect to the Court without delay, so as to allow of the service of the summonses a reasonable time before the within-mentioned date.

SCHEDULE C.

(*Form of Injunction to be issued under section 17.*)

Seal of the Court.

No. of Suit.

In the Court of the Mámlatdár of

Plaintiff.

Defendant.

To defendant.

Whereas in the suit above specified the Court has this day found that you are disturbing or obstructing (*or* that you did attempt on or about the to disturb or obstruct) the said plaintiff in his possession of the under-mentioned property (*or* enjoyment of the under-mentioned use of water *or* use of roads, *or otherwise, as the case may be*).

You are hereby prohibited from making any further attempt to disturb or obstruct the said plaintiff in his possession of the said property (*or* enjoyment of the said use) otherwise than in execution of the decree of a civil Court.

Dated this day of 187 .

(*Signed*)

Mámlatdár.

ACT No. I OF 1877.

Received the Governor's assent on the 2nd of March, 1877, and the Governor General's assent on the 5th of May, 1877, and published by the Governor on the 17th of May, 1877.

An Act to prohibit the practice of inoculation, and to make the vaccination of children in the city of Bombay compulsory.

WHEREAS it is expedient to prohibit the practice of inoculation, and to make the vaccination of children in the city of Bombay compulsory; It is enacted as follows:— Preamble.

PRELIMINARY.

1. This Act may be cited as "The Bombay Vaccination Act, 1877:" Short title.

It extends only to the city of Bombay; Local extent.

It shall come into force on such day as the Governor in Council directs by notification in the *Bombay Government Gazette*, and its operation may at any time be suspended by the Governor in Council by notification in the said Gazette. Commencement.

2. In this Act, unless there be something repugnant in the subject or context— Interpretation-clause.

(1) "parent" includes the father and mother of a legitimate child and the mother of an illegitimate child; "Parent."

(2) "guardian" means any person to whom the care, nurture or custody of any child falls by law, or by natural right or recognized usage, or who has accepted or assumed the care, nurture or custody of any child, or to whom the care or custody of any child has been entrusted by any authority lawfully authorized in that behalf; "Guardian."

(3) "public vaccinator" means any vaccinator appointed under this Act, or any deputy duly authorized to act for such public vaccinator; "Public vaccinator."

(4) "medical practitioner" means any person duly qualified by a diploma, degree or license to practise in medicine or surgery, or specially licensed by the Governor in Council to practise vaccination and grant certificates under the provisions of this Act; "Medical practitioner."

(5) "unprotected child" means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under the provisions of this Act to be insusceptible to vaccination; "Unprotected child."

(6) "animal-lymph" means vaccine taken from the calf. "Animal-lymph."

ESTABLISHMENT.

3. For the purposes of this Act the Sanitary Commissioner for the Presi- Vaccination.

districts.

dency of Bombay, or such other officer as Government directs, shall divide the city of Bombay into as many districts for the performance of vaccination as he shall from time to time deem fit. Each such district shall be called a "Vaccination-district."

Appointment of public vaccinators.

The Sanitary Commissioner or other officer aforesaid shall appoint a public vaccinator for every vaccination-district, and shall appoint such places as he shall from time to time deem fit in each district to be stations for the performance of vaccination. Such stations shall be called "Public Vaccine-stations." Every such public vaccinator shall be removeable from office by the Sanitary Commissioner or other officer aforesaid.

Public vaccine-stations.

Notification of districts and stations.

The limits of the vaccination-districts made, and the positions of the public vaccine-stations fixed, under the provisions of this section, and the days and hours of the public vaccinator's attendance at each station, shall be published from time to time in such manner as shall be directed in rules to be framed under section 31 of this Act.

Public vaccinator to live within district.

4. Every public vaccinator, unless specially permitted by the Sanitary Commissioner or other officer aforesaid to reside elsewhere, shall reside within the district for which he is appointed, and shall cause his name, with the addition of the words "Public Vaccinator for the District of ", to be posted up in some conspicuous place on or near the outer door of his dwelling-house and of every public vaccine-station in his district.

Qualifications of public vaccinator.

5. No person shall be appointed a public vaccinator, or act as a deputy for a public vaccinator, who shall not possess a certificate of qualification signed by the Sanitary Commissioner or other officer aforesaid.

Superintendent of vaccination.

6. A Superintendent of vaccination shall be appointed by Government, who, subject to the orders of the Sanitary Commissioner or other officer aforesaid, shall have a general control over all the proceedings of public vaccinators, and shall perform such duties, in addition to those prescribed by this Act, as shall be required by Government.

Assistant Superintendents.

The Superintendent shall have one or more assistants as Government may from time to time direct.

VACCINATION.

Parent or guardian of children born in Bombay,

7. The parent or guardian of every child born in the city of Bombay shall, within six months after the birth of such child, and

and of unprotected children brought to reside in Bombay,

the parent or guardian of every unprotected child under the age of fourteen years brought to reside, whether temporarily or permanently, in the city of Bombay, shall, within three months after such child's arrival in the city, or if the child be at the time of its arrival less than three months old, within six months after its birth, and

the parent or guardian of every unprotected child living in the city of Bombay at the date of this Act coming into force, and whose age at such date exceeds six months, but does not exceed fourteen years, shall, within six months from the said date, or living in Bombay at date of Act coming into force,

take it, or cause it to be taken, to a public vaccinator to be vaccinated, or shall, within such period as aforesaid, cause it to be vaccinated by some medical practitioner; must procure vaccination.

and the public vaccinator to whom such child, or to whom any child under the age of fourteen years, is brought for vaccination, is hereby required, with all reasonable despatch, subject to the conditions hereinafter mentioned, to vaccinate such child. Public vaccinator bound to vaccinate all children brought to him.

8. At an appointed hour upon the same day in the following week after vaccination shall have been performed by a public vaccinator or a medical practitioner, or on an earlier day, if the public vaccinator or medical practitioner so desires, the parent or guardian shall again take the child, or cause it to be taken, to the public vaccinator or to the medical practitioner by whom the operation was performed, that he may inspect it and ascertain the result of the operation. Inspection.

In the event of the vaccination being unsuccessful, such parent or guardian shall, if the public vaccinator or medical practitioner so direct, cause the child to be forthwith again vaccinated and subsequently inspected as on the previous occasion. Re-vaccination.

9. If any public vaccinator or medical practitioner shall be of opinion that any child is not in a fit state to be vaccinated, he shall forthwith deliver to the parent or guardian of such child a certificate under his hand according to the form of schedule A, hereto annexed, or to the like effect, that the child is then in a state unfit for vaccination. If child be unfit for vaccination, certificate in form A to be given;

The said certificate shall remain in force for two months only, but shall be renewable for successive periods of two months until a public vaccinator or medical practitioner shall deem the child to be in a fit state for vaccination, when the child shall, with all reasonable despatch, be vaccinated and a certificate of successful vaccination given in the form of schedule C, hereto annexed, according to the provisions of section 11 of this Act, if warranted by the result. which shall remain in force for two months, but shall be renewable.

At or before the end of each successive period, the parent or guardian shall take, or cause the child to be taken, to some public vaccinator or medical practitioner, who shall then examine the child and give a fresh certificate according to the said form A, so long as he deems requisite under the circumstances of the case. When successive postponement-certificates to be granted.

10. If any public vaccinator or medical practitioner shall find that a child Provision for

giving certificates of insusceptibility to successful vaccination.

whom he has three times unsuccessfully vaccinated is insusceptible of successful vaccination, or that a child brought to him for vaccination has already had the small-pox, he shall deliver to the parent or guardian of such child a certificate under his hand, according to the form of schedule B hereto annexed, or to the like effect, and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

Provision for giving certificates of successful vaccination.

11. Every public vaccinator or medical practitioner who shall have performed the operation of vaccination upon any child, and shall have ascertained that the same has been successful, shall deliver to the parent or guardian of such child a certificate according to the form of schedule C, hereto annexed, or to the like effect, certifying that the said child has been successfully vaccinated.

Vaccination to be ordinarily with animal-lymph,

12. Except as is hereinafter otherwise provided, the vaccination of a child under the provisions of this Act must, if the parent or guardian of the child so require, be performed with animal-lymph,

but may, if Government so directs, be performed with lymph taken from human being.

but it shall at any time be lawful for the Governor in Council, on its being shown to his satisfaction that animal-lymph is not procurable, to direct by notification in the *Bombay Government Gazette*:—

(*a*) that during such period as he may deem fit to appoint the vaccination of children may, without the assent of the parents or guardians of such children, be performed with lymph taken from a human being; and

(*b*) that the public vaccinator or medical practitioner to whom at any time during the said period a vaccinated child is brought under the provisions of section 8 of this Act for inspection, may, if he see fit, take from such child lymph for the performance of other vaccinations.

No fee for vaccination at public vaccine-station or for certificates.

13. No fee or remuneration shall be charged by any public vaccinator to the parent or guardian of any child for any such certificate as aforesaid, nor for any vaccination done by him in pursuance of this Act at a public vaccine-station:

Proviso.

But it shall be lawful for a public vaccinator to accept a fee for vaccinating a child, by request of the parent or guardian, elsewhere than at a public vaccine-station.

Registration.

Registrar of births to give notice of requirement of vaccination.

14. On the registration of the birth of any child under the provisions of section 256 of the Bombay Municipal Act, 1872, or of any other law for the time being in force, the Registrar shall deliver to the person giving information of such birth a printed notice in the form of schedule D, hereto annexed, or to the like effect, and such notice shall have attached thereto the several forms of certificates prescribed by this Act.

Duplicates of all certificates to be transmitted to Registrar.

15. Every public vaccinator or medical practitioner who gives to any parent or guardian a certificate in any of the forms of schedules A, B and C hereto annexed, shall, within twenty-one days after giving the same, transmit a duplicate thereof to the Registrar of births of the district where the birth of the child on whose account such certificate was given has been registered, or if that be not known to him, or if the child was born out of the city of Bombay, or his birth has not been registered in the said city, to the Registrar of the district within which the child was vaccinated, or presented for vaccination.

Registrar to keep vaccination-notice and certificate-book,

16. The Registrar of births shall keep a book, in such form as may from time to time be prescribed by the Sanitary Commissioner or other officer under section 29 of this Act, in which he shall enter minutes of the notices of vaccination given by him as herein required, and shall also register the duplicates of certificates transmitted to him as herein provided.

and also duplicate register of births, with entries concerning vaccination;

17. He shall also prepare and keep a duplicate of the register of births required to be kept by him under the provisions of the Bombay Municipal Act, 1872, or of any other law for the time being in force, with such additional columns as shall from time to time be prescribed by the Sanitary Commissioner or other officer under section 29 of this Act, in which he shall record the date of every duplicate certificate in the form of schedule B or schedule C hereto annexed, received by him concerning any child whose birth he has registered, and make an entry to the effect that the child has been vaccinated, or is insusceptible of vaccination, as the case may be.

and also register of postponed vaccinations.

18. He shall also keep a register of postponed vaccinations in the form of schedule E, hereto annexed, in which he shall record the name of every child, concerning whom he receives a duplicate certificate in the form of schedule A hereto annexed, together with the date of such duplicate certificate and of each such successive duplicate certificate, if he receives more than one, and shall show the number and year of the entry, if any, in the register of births in which such child's birth has been registered.

Transmission of returns to Superintendent.

19. Every Registrar shall transmit on the first of every month to the Superintendent of vaccination a return, in such form as may from time to time be prescribed by the Sanitary Commissioner or other officer under section 29 of this Act, of all cases in which duplicate certificates have not been duly received by him in pursuance of the provisions of this Act during the last preceding month.

Prosecutions and Offences.

Penalty for inoculating.

20. Whoever produces, or attempts to produce, in any person by inoculation with variolous matter or by wilful exposure to variolous matter or to anything

impregnated therewith, or who wilfully by any other means produces the disease of small-pox in any person;

and for entering city of Bombay after inoculation.

and whoever having been inoculated with small-pox in a place to which this Act does not extend shall afterwards enter the city of Bombay before the expiration of forty days from the date of such inoculation, or without a certificate from a medical practitioner that such person is no longer likely to cause contagion,

shall be punished with imprisonment of either description, within the meaning of the Indian Penal Code, for a term which may extend to three months, or to fine which may extend to two hundred rupees, or with both.

Magistrate may make order for vaccination of unprotected child under 14 years.

21. If the Superintendent of vaccination shall give information in writing to a Magistrate of Police that he has reason to believe that any child within the city of Bombay, under the age of fourteen years, is an unprotected child, and that he has given notice to the parent or guardian of such child to procure its being vaccinated, and that the said notice has been disregarded, such Magistrate may summon such parent or guardian to appear with the child before him, and if the Magistrate shall find, after such examination as he shall deem necessary, that the child is an unprotected child, he may make an order directing such child to be vaccinated within a certain time.

Penalty for disobedience of such order

If at the expiration of such time the child shall not have been vaccinated, or shall not be shown to be then unfit to be vaccinated, or to be insusceptible of vaccination, the person upon whom such order shall have been made shall, unless he can show some reasonable ground for his omission to carry the order into effect, be punished with fine, which may extend to fifty rupees:

Proviso for costs to person improperly summoned.

Provided that if the Magistrate shall be of opinion that the person is improperly brought before him, and shall refuse to make an order for the vaccination of the child, he may order the informant to pay to such person such sum of money as he shall consider a fair compensation for his expenses and loss of time in attending before the Magistrate.

Penalty for not producing child.

22. If any parent or guardian intentionally omits to produce a child whom he has been summoned to produce under the last preceding section, he shall be punished with simple imprisonment, within the meaning of the Indian Penal Code, for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both:

Penalty for neglect to take child to be vaccinated, &c.

23. Whoever, in contravention of this Act,

(*a*) neglects, without reasonable excuse, to take, or cause a child to be taken, to be vaccinated, or after vaccination to be inspected, or

(*b*) at any time during the period for which any notification made under section 12 of this Act is in force, prevents any public

vaccinator from taking lymph from any child whom he has vaccinated, or

(*c*) neglects to fill up and sign and give to the parent or guardian of any child any certificate which such parent or guardian is entitled to receive from him, or to transmit a duplicate of the same to the Registrar of births,

shall be punished for each such offence with fine which may extend to fifty rupees.

Penalty for making or signing false certificate.

24. Whoever wilfully signs, or makes, or procures the signing or making of, a false certificate, or duplicate certificate, under this Act, shall be punished with imprisonment of either description, within the meaning of the Indian Penal Code, for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Penalty for accepting illegal fee or remuneration.

25. If any public vaccinator accepts or obtains, or agrees to accept or attempts to obtain, from any person any fee or remuneration, contrary to the provisions of section 13 of this Act, he shall be deemed to have committed an offence punishable under section 161 of the Indian Penal Code.

Cognizance of offences.

26. All offences under this Act shall be cognizable by a Magistrate of Police, subject to the provisions of any law for the time being in force for the trial of offences, but no complaint of any such offences shall be entertained unless the prosecution be instituted by order of, or under authority from, Government or the Superintendent of vaccination.

Prosecution for neglect.

27. In any prosecution for neglect to procure the vaccination of a child, it shall not be necessary in support thereof to prove that the defendant had received notice from the Registrar, or any other officer, of the requirements of the law in this respect; but if the defendant produce any such certificate as hereinbefore described, or the duplicate of the register of births or the register of postponed vaccinations kept by the Registrar as hereinbefore provided, in which such certificate shall be duly entered, the same shall be a sufficient defence for him except, in regard to the certificate according to the form of schedule A, when the time specified therein for the postponement of the vaccination shall have expired before the time when the information shall have been laid.

Recovery of fines.

28. The provisions of sections 64 to 70, both inclusive, of the Indian Penal Code shall apply to all fines imposed under this Act; and all such fines shall be recoverable in the manner prescribed by Act XIII of 1856 [a] (*for regulating the Police of the towns of Calcutta, Madras and Bombay*), and Act XLVIII of 1860 [b] (*to amend Act XIII of 1856*), or any other Act for the time being in force regulating the Police of the city of Bombay.

[a] See *supra*, p. 73.

[b] See *supra*, p. 96.

MISCELLANEOUS.

Books and forms.

29. The Sanitary Commissioner for the Presidency of Bombay, or such other officer as Government directs, shall frame and provide appropriate books and forms for the use of the public vaccinators, and also such forms as shall be required for the signature of medical practitioners under the provisions of this Act, and he shall also transmit to the Registrars such books and forms as are required by them under the provisions of this Act.

Annual return of number of children vaccinated, &c.

30. It shall be the duty of the executive officer of health for the city of Bombay, appointed under the provisions of the Bombay Municipal Act, 1872, or of the officer for the time being officiating in his appointment, to show in any annual general abstract of births and deaths prepared by him the number of children successfully vaccinated, the number whose vaccination has been postponed, and the number certified to be insusceptible to successful vaccination during the year.

Power of Sanitary Commissioner to make rules

31. The Sanitary Commissioner for the Presidency of Bombay, or such other officer as Government directs, may, with the sanction of the Governor in Council, from time to time make rules or issue orders consistent with this Act—

(*a*) providing for the appointment of deputies of public vaccinators, when necessary;

(*b*) determining the qualifications to be required of public vaccinators or their deputies, and regulating the grant of certificates of qualification under section 5;

(*c*) for the guidance of public vaccinators and others in all other matters connected with the working of this Act.

All such rules or orders shall be published in the *Bombay Government Gazette*.

SCHEDULE A.

(*See section 9*).

I, the undersigned, hereby certify that, in my opinion, , the child of , resident at , in Bombay, is not now in a fit and proper state to be vaccinated, and I do hereby postpone the vaccination for the period of two months from this date.

Dated this day of , 18 .

(*Signature of Medical Practitioner or Public Vaccinator*).

SCHEDULE B.

(*See section 10*).

I, the undersigned, hereby certify that I have three times unsuccessfully vaccinated , the child of , residing at , in Bombay (*or* that the child has already had small-pox, *as the case may be*), and I am of opinion that the said child is insusceptible of successful vaccination.

Dated this day of , 18 .

(*Signature of Medical Practitioner or Public Vaccinator*).

SCHEDULE C.

(*See section 11*).

I, the undersigned, hereby certify that , the child of age , resident at , in Bombay, has been successfully vaccinated by me.

Dated this day of , 18 .

(*Signature of Medical Practitioner or Public Vaccinator*).

SCHEDULE D.

(*See section 14*).

To

(*Here insert the name of the parent, guardian or other person who gives information of the child's birth.*)

Take notice that the child of (*here enter the mother's name*) whose birth has this day been registered, must be vaccinated under the provisions of the Bombay Vaccination Act, 1877, within six months from the date of its birth, under a penalty of ten rupees.

The public vaccine-station nearest to the house in which the child was born is at No. . The days and hours for vaccination at that station are as follows :—

(*Here insert the days and the hours when the public vaccinator is in attendance*).

On your taking, or causing the child to be taken, to the public vaccinator at the said station within the said hours on any of the said days, or at any

other public vaccine-station in the city on the days and within the hours prescribed for public vaccination at such station, it will be vaccinated free of charge.

You should be careful to have one of the annexed forms of certificates filled in by the public vaccinator, or if you employ a private medical practitioner to vaccinate the child, by such medical practitioner, and to keep the same in your possession. Any such certificate will be granted to you by a public vaccinator free of charge.

Dated the of , 18 .

Registrar of Births.

SCHEDULE E.

(*See section 18*).

Register of postponed Vaccinations for the District of in Bombay.

Consecutive number.	Name of child.	Birth.		Date of certificate of postponement.	Signature of Registrar.
		Year.	No. of entry in register.		
1	Vinayak Pandurang ...	1868	12	1868 May 10	H. O.

ACT No. II of 1878.

Received the Governor's assent on the 10th of January, 1878, and the Governor General's assent on the 15th of February, 1878, and published by the Governor on the 23rd of February, 1878.

An Act to amend Bombay Act II of 1868.

Preamble. Whereas it is expedient to amend the Bombay Ferries Act, 1868; It is enacted as follows:—

Addition to section 3 of Bombay Act II of 1868. 1. To section 3 of the said Act the following clause shall be added (namely):—

[See *supra*, p. 292.]

Addition after section 14. 2. After section 14 of the said Act the following section shall be inserted:—

[See *supra*, p. 295.]

ACT No. IV OF 1878.

Received the Governor's assent on the 13th of February, 1878, and the Governor General's assent on the 19th of June, 1878, and published by the Governor on the 18th of July, 1878.

An Act to amend the Bombay Municipal Act of 1872, and to continue the same as so amended.

Preamble.

WHEREAS the period of three years for which it was provided by section 307 of the Bombay Municipal Act of 1872[a] that the said Act should be in force expired on the nineteenth day of June, 1876, and the period of the operation of the said Act has been temporarily extended by the Governor in Council by notifications issued from time to time under the provisions of the said section until the thirty-first December, 1878;

And whereas it is expedient that the said Act, which is hereinafter referred to as "the principal Act," should be continued, subject to the modifications hereinafter appearing, permanently, and that the Acts heretofore passed for amending the principal Act should be consolidated; It is enacted as follows:—

Short title.

1. This Act may be cited as "The Bombay Municipal Act Amendment and Continuance Act, 1878," and this Act and the principal Act may be together cited as "The Bombay Municipal Acts of 1872 and 1878."

Commencement.

So much of this Act as relates to any rate or tax leviable by the Corporation other than town-duties, shall be deemed to have come into force on the first day of January, 1878; the rest of this Act shall come into force on the publication by the Governor of the assent of the Governor General thereto, but nothing in section 63 shall be deemed to affect the levy of town-duties during the year 1878 on the articles, and at the rates, prescribed and fixed by the Corporation under section 115 of the principal Act for the said year, and the town-duties so fixed shall be the town-duties leviable for the said year.[b]

Construction.

2. This Act shall be read with, and taken as part of, the principal Act.

Repeal of enactments.

3. Sections 37, 75, 87, 88, 89, 97, 98, 99, 100, 101, 102, 103 and 307 of the principal Act, and Bombay Acts II of 1873, II of 1875 and II of 1877 are repealed; but the repeal of Bombay Act II of 1877 shall not affect the validity of anything expressly made, or declared to be, legal or valid by the said Act.

The following headings in the body of the principal Act shall be omitted (namely):—

[*The headings indicated have been omitted.*]

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[a] See *supra*, p. 320.

[b] See Bombay Act No. VI of 1878, section 1.

Repeal of parts of Bombay Act III of 1872 named in schedule.

4. The words quoted in the second column of the schedule to this Act, from the sections of the principal Act respectively mentioned in the first column of the said schedule, are repealed, and where such intention is expressed in the said schedule, the words contained in the third column thereof shall be deemed to be respectively substituted for the words so repealed.

Amendment of sections 4 to 11.

5. For sections four to eleven, both inclusive, of the principal Act, the following sections shall be substituted (namely) :—

[See *supra*, pp. 322 to 326.]

Tenure of office of existing members of Corporation.

6. The members of the Corporation on the day on which this Act comes into force shall, subject to the provisions of section 8 of the principal Act, as amended by section 5 of this Act, continue to be members thereof until and inclusive of the thirty-first of December, 1878.

No new elections or appointments to be made meantime.

Between the date on which this Act comes into force and the said thirty-first December, 1878, no new members of the Corporation shall be elected or appointed, but the persons who are members thereof on the date on which this Act comes into force, or so many of them as shall not by reason of death, resignation or disqualification cease in the meantime to be members thereof, shall, for such period, be deemed to constitute the Corporation, anything in the principal Act which requires that the Corporation shall consist of sixty-four members to the contrary notwithstanding.

From and after the thirty-first December, 1878, the said persons shall cease to be members of the Corporation, unless they have been re-elected or re-appointed members thereof for the next ensuing term of two years :

Town Council to continue till new Council appointed.

Provided that the members of the Town Council on the thirty-first December, 1878, shall continue to hold office, as such, until such time as a new Town Council shall be duly appointed under the provisions of section 19 of the principal Act, as amended by section 9 of this Act.

Section inserted after section 12.

7. After section 12 of the principal Act, the following section shall be inserted (namely) :—

[See *supra*, p. 327.]

Amendment of section 18.

8. For section 18 of the principal Act, the following section shall be substituted (namely) :—

[See *supra*, p. 328.]

Amendment of section 19.

9. For section 19 of the principal Act, the following section shall be substituted (namely) :—

[See *supra*, p. 329.]

Amendment of section 24.

10. For section 24 of the principal Act, the following section shall be substituted (namely) :—

[See *supra*, p. 329.]

Amendment of section 26

11. In section 26 of the principal Act, the following words shall be inserted after the word "Act" (namely) —

[See *supra*, p 330]

And the following words shall be inserted in the said section between the words "He shall" and the words "not hold" (namely) —

[See *supra*, p 330]

Amendment of section 29

12. For section 29 of the principal Act, the following section shall be substituted (namely) —

[See *supra*, p 331]

Amendment of section 30

13. In section 30 of the principal Act, the words "and records" shall be inserted after the word "accounts"

Amendment of section 31

14. In section 31 of the principal Act, the following words shall be inserted after the word "Corporation," where it is followed by the words "for the purposes" (namely) —

[See *supra*, p 331]

Amendment of section 36

15. In section 36 of the principal Act, the words "or modify" shall be inserted after the word "reject"

Amendment of section 43

16. For section 43 of the principal Act, the following section shall be substituted (namely) —

[See *supra*, p 334]

Present executive engineer and health officer to hold appointments for five years

17. The executive engineer and executive officer of health to the Corporation at the time of the passing of this Act shall continue to hold their offices for a term of five years as if they had been respectively appointed under the provisions of sections 44 and 45 of the principal Act as modified by this Act

Amendment of section 53

18. For section 53 of the principal Act, the following section shall be substituted (namely) —

[See *supra*, p 337.]

Amendment of section 56

19. For section 56 of the principal Act, the following section shall be substituted (namely) —

[See *supra*, p 338]

Amendment of section 67.

20. For section 67 of the principal Act, the following section shall be substituted (namely) —

[See *supra*, p 341]

Amendment of heading to section 69

21. For the heading "*House-rate*" prefixed to section 69 of the principal Act, the following heading shall be substituted (namely) —

[See *supra* p 342]

Amendment of section 69

22. For section 69 of the principal Act, the following section shall be substituted (namely) —

[See *supra*, p 342]

New section inserted after section 69

23. After section 69 of the principal Act, the following section shall be inserted (namely) —

[See *supra*, p 342]

New section inserted after section 70

24. After section 70 of the principal Act, the following section shall be inserted (namely) —

[See *supra*, p 343]

Amendment of section 73

25. For section 73 of the principal Act, the following section shall be substituted (namely) —

[See *supra*, p 344.]

Amendment of section 76, clause 2

26. For clause 2 of section 76 of the principal Act, the following clause shall be substituted (namely) —

[See *supra*, p 345]

Amendment of section 82

27. For section 82 of the principal Act, the following section shall be substituted (namely) —

[See *supra*, p 347]

Amendment of section 83

28. In section 83 of the principal Act, the following words shall be inserted after the word "value" (namely) —

[See *supra*, p 347]

and the following words shall be inserted in the said section after the word "first" (namely) —

[See *supra*, p 347]

Amendment of section 84.

29. For section 84 of the principal Act, the following section shall be substituted (namely) —

[See *supra*, p 347]

Addition to section 85

30. To section 85 of the principal Act, the following clause shall be added (namely) —

[See *supra*, p 348]

Amendment of section 86.

31. For section 86 of the principal Act, the following section shall be substituted (namely) —

[See *supra*, p 348]

Amendment of section 95

32 For section 95 of the principal Act, the following section shall be substituted (namely) —

[See *supra*, p 350]

Amendment of section 104

33. For section 104 of the principal Act, the following section shall be substituted (namely) —

[See *supra*, p 351]

Addition to section 114

34. To section 114 of the principal Act, the following proviso shall be added (namely) —

[See *supra*, p 353]

35. To section 117 of the principal Act, the following clause shall be added (namely) :— Addition to section 117.

[See *supra*, p. 354.]

36. For section 118 of the principal Act, the following section shall be substituted (namely) :— Amendment of section 118.

[See *supra*, p 354.]

37. In section 120 of the principal Act, the following words shall be inserted after the words "Town Council" (namely) :— Amendment of section 120.

[See *supra*, p. 354.]

and the following words shall be inserted in the said section after the words "six months" (namely) :—

[See *supra*, p. 355.]

38. For section 134 of the principal Act, the following section shall be substituted (namely) :— Amendment of section 134.

[See *supra*, p. 357.]

39. To section 137 of the principal Act, the following paragraphs shall be added (namely) :— Addition to section 137

[See *supra*, p. 359.]

40 To section 138 of the principal Act, the following paragraph shall be added (namely) :— Addition to section 138.

[See *supra*, p. 359.]

41. To section 149 of the principal Act, the following paragraph shall be added (namely) :— Addition to section 149.

[See *supra*, p. 364.]

42. For section 151 of the principal Act, the following section shall be substituted (namely) :— Amendment of section 151

[See *supra*, p. 364.]

43 For section 153 of the principal Act, the following section shall be substituted (namely) :— Amendment of section 153

[See *supra*, p. 365.]

44. For section 165 of the principal Act, the following section shall be substituted (namely) :— Amendment of section 165.

[See *supra*, p. 369.]

45 For section 166 of the principal Act, the following section shall be substituted (namely) .— Amendment of section 166.

[See *supra*, p. 369]

46 For section 167 of the principal Act, the following section shall be substituted (namely) :— Amendment of section 167.

[See *supra*, p. 370.]

Amendment of section 168.

47. For section 168 of the principal Act, the following section shall be substituted (namely) :—

[See, *supra*. p. 370.]

Amendment of section 185.

48. In section 185 of the principal Act, the following words shall be inserted after the word " clean " (namely) :—

[See *supra*, p. 376.]

Amendment of section 186.

49. For section 186 of the principal Act, the following section shall be substituted (namely) :—

[See *supra*, p. 376.]

Addition to section 188

50. To section 188 of the principal Act, the following clause shall be added (namely) :—

[See *supra*, p. 377.]

Amendment of section 191

51. For section 191 of the principal Act, the following section shall be substituted (namely) :—

[See *supra*, p. 378.]

Addition to section 205

52. To section 205 of the principal Act, the following clause shall be added (namely) :—

[See *supra*, p. 383.]

Amendment of section 208.

53. In section 208 of the principal Act, the following words shall be inserted after the word "aqueduct" (namely) :—

[See *supra*, p. 383.]

and the following words shall be inserted in the said section between the words "projection aforesaid" and the words "shall be liable" (namely) :—

[See *supra*, p. 384.]

Sections inserted after section 212.

54. After section 212 of the principal Act, the following heading and sections shall be inserted (namely) :—

[See *supra*, p. 386.]

Amendment of section 213.

55. In section 213 of the principal Act, the words "or places" shall be inserted after the word "receptacles" wherever it occurs.

Amendment of section 217.

56. In section 217 of the principal Act, the words "without such consent as aforesaid" shall be inserted after the word "night-soil."

Amendment of section 225.

57. In section 225 of the principal Act, the words "or other articles" shall be inserted after the word "skins."

Sections inserted after section 245.

58. After section 245 of the principal Act, the following heading and sections shall be inserted (namely) :—

[See *supra*, pp. 396—398.]

Section inserted after section 249

59. After section 249 of the said Act, the following section shall be added (namely) :—

[See *supra*, p. 400.]

60. For section 271 of the principal Act, the following section shall be substituted (namely) :— Amendment of section 271.

[See *supra*, p. 406.]

61. In section 272 of the principal Act, the following words shall be inserted after the words "each copy" (namely) :— Amendment of section 272.

[See *supra*, p. 406.]

62. To section 291 of the principal Act, the following proviso shall be added (namely) :— Addition to section 291.

[See *supra*, p. 411.]

63. For schedule B of the principal Act, the following schedule shall be substituted :— Amendment of schedule B.

[See *supra*, p. 415.]

SCHEDULE.

[*N. B.—The principal Act has been printed in its place in this volume with the changes indicated in this schedule.*]

ACT No. V of 1878.

Received the Governor's assent on the 26th of July, 1878, and the Governor General's assent on the 7th of September, 1878, and published by the Governor on the 19th of September, 1878.

An Act to consolidate and amend the Ábkárí-law of the Presidency of Bombay.

WHEREAS it is expedient to consolidate and amend the law relating to the import, export, transport, manufacture, sale and possession of liquor and of intoxicating drugs in the Presidency of Bombay; It is enacted as follows :— Preamble.

I.—PRELIMINARY.

1. This Act may be cited as "The Bombay Ábkárí Act, 1878:" Short title.

It extends to the whole of the Presidency of Bombay; Extent.

And it shall come into force in any portion of the said Presidency on such date as Government by notification in the *Bombay Government Gazette* directs. Commencement.

2. The enactments mentioned in the schedule hereto annexed are repealed to the extent specified in the third column of the said schedule : Repeal of enactments.

Provided that all licenses granted under any of the said enactments in force on the date on which this Act comes into operation shall continue in force for

the periods for which the same have been respectively granted, subject to the provisions of the enactments under which such licenses were granted:

Provided further that the said repeal shall not affect any act done, or any offence committed, or any proceedings commenced, or any claim which has arisen, or any penalty which has been incurred, before this Act comes into operation.

Interpretation clause.

3. In this Act, unless there be something repugnant in the subject or context—

"Ábkárí-revenue."

(1) "ábkárí-revenue" means revenue derived or derivable from any duty, fee, tax, fine or confiscation imposed or ordered, under the provisions of this Act, or of any other law for the time being in force relating to liquor or intoxicating drugs;

"Ábkárí-officer"

(2) "Ábkárí-officer" means a Commissioner, Collector or any officer or other person lawfully appointed, or invested with powers under section 6;

"Commissioner."

(3) "Commissioner" means, in Sindh, the Commissioner in Sindh, and elsewhere a Commissioner of land-revenue, or if Government appoint any other officer to be a Commissioner for the purposes of this Act, such other officer;

"Collector."

(4) "Collector" means a Collector of land-revenue, or any person appointed under section 5 to exercise the powers and perform the duties of a Collector under this Act;

"Magistrate."

(5) "Magistrate" means, in the city of Bombay, a Presidency Magistrate, and elsewhere a Magistrate of the first or second class;

"Toddy."

(6) "toddy" means juice drawn from a cocoanut, brab, date or any kind of palm-tree, whether in its fermented or unfermented state;

"Liquor."

(7) "liquor" includes spirits of wine, spirits, wine, toddy, beer and all liquid consisting of, or containing, alcohol;

"Country-liquor."

(8) "country-liquor" includes all liquor produced or manufactured in India;

"Intoxicating drug."

(9) "intoxicating drug" includes gánjá, bháng and every preparation and admixture of the same, and every intoxicating drink or substance prepared from hemp, grain or other material not included in the term "liquor;" but does not include opium or any thing included within the meaning of that word as defined in the Indian Opium Act, 1878.

"Import." "Export."

(10) "import" and "export" include respectively the conveying into, or out of, any part of the Presidency of Bombay, from, or to, any other part of India;

"Manufacture."

(11) "manufacture" includes every process, whether natural or artificial, by which any spirituous, fermented or intoxicating liquor or intoxicating drug is prepared, and also every process for the rectification of liquor;

admixing is a process within the meaning of this definition,

(12) "seer" means a weight of eighty tolas 'Seer'

II —Establishment and Control

4 Subject to the control and direction of the Commissioners and the orders of Government, the Collectors are charged with the collection of the Abkari-revenue, and with the carrying out of the provisions of this Act Collectors charged with the carrying out Act

For the purposes of this Act, the Collector of Bombay shall be subordinate to such Commissioner as Government directs

5 Government may, by notification in the *Bombay Government Gazette*, appoint any person other than the Collector of land-revenue to exercise, in any district or place, all the powers and perform all the duties conferred and imposed by this Act on a Collector, subject to such control, if any, in addition to that of the Commissioner and of Government, as Government may from time to time direct Special Collectors of Abkari revenue may be appointed

6 To aid the Collectors in carrying out the provisions of this Act, the Commissioners may, subject to such orders as may from time to time be passed by Government in this behalf, appoint such subordinate officers, with such designations, and assign to them respectively such powers and duties under this Act, as they deem fit Subordinate officers

Government, or, subject to such orders as aforesaid, the Commissioners, may invest any Government-officer in any department, either personally or in right of his office, or any other person, with such powers, and impose upon him such duties, under this Act as they deem fit, and any such officer shall thereupon exercise the said powers and discharge the said duties in addition to the powers and duties incident to his principal office

Provided that powers under sections 36 and 40, clause (*b*), shall in no case be conferred on any officer of any department who is not superior in rank to a peon or constable, and that any assignment of, or investment with, powers or duties made under this section may at any time be cancelled or varied by the authority which made it

7 Subject to such orders as aforesaid, the Commissioners may at any time after inquiry recorded in writing, fine, dismiss, suspend or reduce any subordinate officer appointed, or any officer on whom any additional powers or duties have been conferred or imposed by them under the provisions of the last preceding section, for any breach of departmental rules or discipline, or for carelessness, unfitness, neglect of duty or other misconduct Punishment of subordinate officers for misconduct

8 The powers conferred on the Commissioners by the last two sections may be delegated by them, in whole or in part, to the Collectors, or to any Collector subordinate to them, and any such delegation may be at any time cancelled by the Commissioners Delegation of powers by Commissioners to Collectors

III.—Import, Export and Transport.

Import of liquor or intoxicating drug.

9. No liquor or intoxicating drug shall be imported by land or by sea into any part of the Presidency of Bombay unless—

(*a*) it is liable to the payment of duty under the Indian Tariff Act, 1875,[a] or any other law for the time being in force relating to the duties of customs on goods imported into British India and the duty prescribed by such law has been paid thereon; or

(*b*) such import is permitted under the power next hereinafter conferred:

Subject to the orders of Government the Collector may, from time to time,

(*c*) permit the import of liquor or intoxicating drugs, or of any kind of liquor or intoxicating drugs other than liquor or intoxicating drugs liable to the payment of duty under such law as aforesaid, on payment of the duty, if any, to which the same is liable under this Act and on such other terms as he thinks fit, and

(*d*) cancel such permission.

Export of liquor or intoxicating drug.

10. No liquor or intoxicating drug shall be exported by land or by sea from any part of the Presidency of Bombay unless—

(*a*) it has been lawfully imported by sea into any port in the said Presidency, and its export is permitted by competent authority on payment of the fee or duty, if any, to which it is liable under any law for the time being in force on its transhipment or re-exportation; or

(*b*) such export is permitted under the power next hereinafter conferred;

Subject to the orders of Government the Collector may, from time to time,

(*c*) permit the export of liquor or intoxicating drugs, or of any kind of liquor or intoxicating drugs, on payment of the duty, if any, to which the same is liable under this Act and on such other terms as he thinks fit, and

(*d*) cancel such permission.

Sections 9 and 10 not to affect certain laws and powers of Governor General in Council.

11. Provided that nothing in the two last preceding sections shall be deemed to affect any law for the time being in force which prohibits or restricts the importation of any liquor or intoxicating drug into the said Presidency, or which empowers the Governor General in Council to prohibit or restrict such importation, or which empowers the Governor General in Council to exempt any liquor or intoxicating drug from the whole or any part of the

[a] See General Acts, vol. III, p. 2060.

duties of customs to which it is liable under any law for the time being in force:

Provided further that it shall be lawful for the Governor General in Council or for the Governor of Bombay in Council to exempt any liquor or intoxicating drug from any duty to which the same may be liable under either of the said sections, or under any of the other provisions of this Act.

Transport of liquor and intoxicating drugs.

12. No liquor or intoxicating drug exceeding such quantity as Government may from time to time deem fit to prescribe by notification in the *Bombay Government Gazette* either generally for the whole Presidency, or for any local area, district, city, town or village, shall be transported or removed from any one place to any other place unless—

(*a*) in the case of liquor other than country-liquor, the quantity transported or removed is *bonâ fide* required for private consumption, or for sale at any place to which the same is being transported or removed, and at which the sale of such liquor is duly licensed or permitted under the provisions of this Act, or

(*b*) under a permit issued by an Ábkárí-officer duly empowered in this behalf under the provisions of the next following section.

Permits for transport.

13. Permits for the transport or removal of liquor or intoxicating drugs may be issued by the Collector or by any other Ábkárí-officer duly empowered in this behalf.

Such permits may be issued either generally for definite periods, or for specified occasions only.

Every such permit shall specify—

(*a*) the name of the person authorized to transport or remove liquor or intoxicating drugs;

(*b*) the period for which the permit is to be in force;

(*c*) the quantity and description of liquor or intoxicating drugs for which it is granted, and

(*d*) the places from and to which the liquor or intoxicating drugs are to be transported or removed, and, in the case of places more than ten miles apart, the route by which they are to be conveyed.

IV.—Manufacture.

Manufacture of liquor or intoxicating drug prohibited except under provisions of Act.

14. No liquor or intoxicating drug shall be manufactured,

no toddy shall be drawn from any tree,

no distillery or brewery shall be constructed or worked, and

no person shall use, keep or have in his possession any material, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing liquor or any intoxicating drug,

except under the authority and subject to the terms and conditions of a license to be granted by the Collector in this behalf or under the provisions of section 23.

Establishment of public distilleries.

15. The Collector may, with the previous sanction of Government,

(*a*) establish at any place within his jurisdiction a public distillery in which liquor or any kind of liquor may be manufactured under a license granted under the last preceding section on such conditions as Government deems fit to impose, and

(*b*) discontinue any public distillery so established.

V.—Sale.

Sale of liquor and intoxicating drugs prohibited without license or pass.

16. Except as is hereinafter otherwise provided, no liquor and no intoxicating drug shall be sold without a license or pass from the Collector:

Provided that, in the city of Bombay and in such other places as Government may from time to time direct, no such license shall be necessary for the sale of any liquor not manufactured or produced in India, in its original casks or packages as imported, or in small quantities as *bonâ fide* samples;

Provided, further, that no such license shall be necessary for the sale, by a cultivator or owner of any plant from which an intoxicating drug is produced, of those portions of the plant from which the intoxicating drug is manufactured or produced, to a person holding a license under this section for the sale of intoxicating drugs, or to a person duly licensed under this Act to manufacture or to export intoxicating drugs.

Limit of retail-sale.

17. It shall be lawful for Government from time to time, by notification in the *Bombay Government Gazette*, to limit the quantity of country-liquor or of any intoxicating drug which may be sold by retail at one time, or to one and the same person, in the aggregate on any one day within any defined local area or place.

When any such limit has been prescribed in any local area or place, the Collector or any Abkárí-officer duly empowered in this behalf may, subject to rules to be prescribed by the Commissioners under section 35, give special orders for the occasional sale of country-liquor or of any intoxicating drug in quantities exceeding such limit.

Sale of toddy

18. No owner of any toddy-producing tree, and no person having a right to the juice of any such tree, and no drawer of toddy, shall sell toddy, and no person transporting or removing toddy under a permit granted under clause (*b*) of section 12 shall sell the same, except—

(*a*) under a license granted under section 16, or

(*b*) to a person licensed to manufacture or sell liquor under this Act:

Provided that Government may from time to time, by notification in the

Bombay Government Gazette, suspend all the provisions relating to toddy contained in this Act with respect to any local area, and thereupon toddy may, during the period for which such notification continues in force, be drawn and sold without license or pass in such local area, notwithstanding anything in this Act.

VI.—Duties.

Duty on liquor.

19. A duty shall, if Government so direct, be levied on all liquor—

(*a*) permitted to be imported into any part of the Presidency of Bombay under the provision of section 9, clause (*c*), or

(*b*) permitted to be exported from any part of the Presidency of Bombay under the provision of section 10, clause (*c*), or

(*c*) manufactured under any license granted under section 14, or

(*d*) manufactured at any distillery established under section 15, or

(*e*) permitted under section 18 to be transported or removed from any one place to any other place,

at such rate or rates, as Government may from time to time prescribe.

Rate.

The said duty may be imposed at a certain rate per imperial gallon of liquor of not more than a certain strength, to be augmented in proportion as the strength of the liquor exceeds such strength, or in a lump sum to be paid daily or monthly or at other specified periods, in consideration of the privilege granted, or in any other manner whatsoever that Government may deem fit to direct.

Duty on tapping of toddy-trees.

20. For every toddy-producing tree from which toddy is drawn there shall, if Government so direct, be levied for any period during which such tree is tapped, such duty as Government from time to time directs;

and every license for drawing toddy granted under section 14 shall specify, in addition to any other particulars prescribed by Government under section thirty,

(*a*) the number, description and situation of the trees to be tapped;

(*b*) the amount of duty to be levied in respect of each tree included in the license;

(*c*) the instalments, if any, in which and the periods at which the said duty shall be leviable.

Duty by whom payable.

21. The said duty shall be leviable primarily from the person holding the license to draw toddy, and in default by him, or if the trees are tapped without license, from the owner of the trees.

Owner entitled to assistance in recovering from

22. When any duty is recovered under the last preceding section from the owner of the trees, he shall be entitled to assistance in recovering the same from the holder of the license under the provisions of the law for the

licensee duty paid by him.

time being in force relating to the recovery by superior landholders of their dues from their tenants.

Farming of right of drawing toddy within local area.

23. It shall be lawful for the Government within any local area to which they shall deem fit to apply the provisions of this section, instead of directing the levy of a duty under section 20 on each tree from which toddy is drawn, to farm the right of drawing toddy from all toddy-producing trees within such area for such period and on payment of such duty either in the lump or in periodical instalments and on such conditions as they shall deem fit to impose.

Within any such area no person shall draw toddy from any toddy-producing tree, except with the written permission of the person to whom the said right is farmed.

Levy of tax or fee on toddy-trees prior to Act legalized.

24. The levy heretofore made in certain districts of a tax on the tapping of toddy-trees, or of a license-fee for drawing toddy from such trees, shall be deemed to have been lawfully made, and may hereafter be continued, subject to the provisions of this Act, at the same rates and subject to the same rules as are now in force until such time as Government, in exercise of the powers conferred by this Act, otherwise directs.

Arrears of any such tax or fee which accrued before the passing of this Act shall be recoverable as a duty due under this Act.

Privilege of drawing toddy from Government-trees.

25. The privilege of drawing toddy from trees the right to which vests in Government, may be disposed of annually by auction or otherwise on such terms as the Collector, acting under the general orders of Government, deems fit.

Adjustment of duty when joint privileges are conceded.

26. Whenever one and the same person is permitted

(*a*) to draw toddy and sell it in its unfermented state, or

(*b*) to draw toddy and export it in its unfermented state, or

(*c*) to import unfermented toddy and sell it in its unfermented state, or

(*d*) to draw or to import fermented or unfermented toddy and use it in the manufacture of other liquor, or

(*e*) to manufacture, or to import and sell, or

(*f*) to manufacture and export

any country-liquor other than unfermented toddy,

such duty may be levied in consideration of the joint privileges granted, as the Collector, acting under the general or special orders of Government, thinks fit.

Duty on intoxicating drugs.

27. Whenever a license is granted under this Act for the manufacture or sale of any intoxicating drug, and whenever the import, export, transport or removal from place to place of any intoxicating drug is permitted under this Act, such duty shall be levied in consideration of the privilege granted,

as the Collector, acting under the general or special orders of Government, thinks fit.

Duties may be farmed.

28. All or any of the duties leviable under this Act in any local area, may, with the sanction of Government, be farmed, subject to such payment and on such other conditions as Government shall prescribe.

Farmer may apply to Collector to recover amounts due to him.

29. When any amount is due to any such farmer from such farmer's licensee in respect of a license, or to any farmer of the right of drawing toddy from any person who has drawn toddy from any toddy-producing tree, such farmer may apply to the Collector to recover such amount on his behalf; and the Collector may, in his discretion, recover such amount as if it were an arrear of land-revenue, and shall pay any amount so recovered to the applicant:

Provided that the execution of any process issued by the Collector for the recovery of such amount shall be stayed if the person from whom it is sought to recover the same institutes a suit in the civil Court to try the demand of the farmer, and furnishes security to the satisfaction of the Collector for the payment of the amount which the Court may adjudge to be due from him to such farmer:

Provided also that nothing contained in this section or done thereunder shall affect the right of any such farmer to recover by suit in the civil Court or otherwise any amount due to him from any such person as aforesaid.

VII.—Licenses, &c.

Form and conditions of licenses, &c.

30. Every license, permit or pass granted under this Act shall be granted

(*a*) on payment of such fees, if any,

(*b*) for such period,

(*c*) subject to such restrictions and on such conditions, and

(*d*) shall be in such form and contain such particulars,

as Government directs in rules or orders made either generally, or in any particular instance, in this behalf, such rules or orders being not inconsistent with this Act.

Counterpart-agreement to be executed by licensees.

31. Every person taking out a license for the manufacture or sale of any liquor or intoxicating drug under this Act, shall execute a counterpart-agreement in conformity with the tenor of his license, and shall give such security for the performance of his agreement as the Collector may require.

Power to recall licenses, &c.

32. The Collector may summarily recall or cancel any license, permit or pass granted under this Act,

(*a*) if any fee or duty payable by the holder thereof be not duly paid, or

(*b*) in the event of any breach by the holder of such license, permit or pass, or by his servants, or by any one acting with his express or

implied permission, on his behalf, of any of the terms or conditions of such license, permit or pass, or

(*c*) if the holder thereof is convicted of any offence against this Act or any other law for the time being in force relating to ábkárí-revenue, or of any criminal offence.

VIII.—General Provisions.

Certain licensees required to keep measures, &c.

33. Every person who manufactures or sells liquor under a license granted under this Act shall be bound

(*a*) to supply himself with such measures and with such instruments for testing the strength or quality of liquor as the Collector prescribes, and to keep the same in good condition, and

(*b*) on the requisition of any Ábkárí-officer duly empowered in this behalf at any time to measure out or test the strength or quality of any liquor in his possession in such manner as the said Ábkárí-officer may require.

Recovery of duties, &c.

34. All duties, taxes, fines and fees leviable under any of the foregoing provisions of this Act or of any license, permit or pass issued under it, and all amounts due from any farmer under this Act may be recovered from the person primarily liable to pay the same, or from his surety (if any) as if they were arrears of land-revenue.

IX.—Powers of Ábkárí-officers.

Power to Commissioners to frame rules.

35. The Commissioners may from time to time frame rules—

(*a*) regulating the mode in which toddy may be supplied to licensed vendors of the same, or to persons who use it in the manufacture of other liquor;

(*b*) determining the number of licenses of each description to be granted in any district or place;

(*c*) regulating the number, size and description of stills to be used in any distillery;

(*d*) providing for the inspection and supervision of stills, distilleries and breweries;

(*e*) for the management of any public distillery established under section 15;

(*f*) for placing the preparation of intoxicating drugs, and the storage, import, export, transport or removal of liquor or intoxicating drugs under such supervision as may be deemed necessary for the purposes of this Act;

(*g*) prescribing the occasions on which special orders may be granted

under section 17 for the retail-sale of larger quantities of country-liquor or intoxicating drugs than are prescribed in any notification issued under the said section, and the conditions on which such sales may be made;

(*h*) prohibiting the use of any article which they shall deem to be noxious or otherwise objectionable in the manufacture of liquor or of any intoxicating drug.

Powers exercisable by Ábkárí-officers on information that liquor, &c., is unlawfully manufactured, &c.

36. Any Commissioner or Collector, or other Ábkárí-officer duly empowered in this behalf, may

(*a*) enter and inspect, at any time by day or by night, any shop or premises in which any licensed manufacturer or vendor carries on the manufacture or sale of any liquor or intoxicating drug, or draws toddy, or stores any such liquor or drug, and examine, test, measure or weigh any such person's stock of liquor, drugs or materials; or

(*b*) enter, at any time by day or by night, any building, vessel or enclosed place in which he has reason to believe that liquor or any intoxicating drug liable to confiscation under this Act is manufactured, kept or concealed, or that toddy is drawn, or that any still, utensil, implement or apparatus is used, kept or concealed for the purpose of manufacturing liquor or any intoxicating drug contrary to the provisions of this Act; and

(*c*) in case of resistance, break open any door and remove any other obstacle to his entry into any such shop, premises, building, vessel or other place; and

(*d*) seize any liquor or drug and any material used in the manufacture thereof, and any still, utensil, implement or apparatus, and any other thing which he has reason to believe to be liable to confiscation under this Act, or under any other law for the time being in force relating to ábkárí-revenue; and

(*e*) detain and search and, if he think proper, arrest any person whom he has reason to believe to be guilty of any offence under this or any other law for the time being in force relating to ábkárí-revenue.

Power to seize liquor, &c., in open places, and to detain, search and arrest.

37. Any Commissioner or Collector, or other Ábkárí-officer duly empowered in this behalf, may

(*a*) seize in any open place, or in transit, any liquor or intoxicating drug or any other thing which he has reason to believe to be liable to confiscation under this or any other law for the time being in force relating to ábkárí-revenue;

(*b*) detain and search any person whom he has reason to believe to be guilty of any offence against this or any other such law, and if such person has any such liquor, drug or other thing in his possession, arrest him.

Searches how made.

38. All searches under the two last preceding sections shall be made in accordance with the provisions of the Code of Criminal Procedure.

Officers of certain departments bound to assist.

39. All officers of the departments of Police, Customs, Salt, Opium or Revenue, or of the Bombay Port-trust, shall be legally bound to assist any Ábkárí-officer in carrying out the provisions of this Act.

Issue of warrants.

40. Any Commissioner or Collector, or other Ábkárí-officer duly empowered in this behalf, or a Magistrate, may issue a warrant

(*a*) for the arrest of any person whom he has reason to believe to have committed an offence against this or any other law relating to ábkárí-revenue for the time being in force, or

(*b*) for the search, whether by day or by night, of any building, vessel or place in which he has reason to believe that any liquor or intoxicating drug is manufactured or sold, or that any toddy is drawn contrary to the provisions of this Act, or that any liquor, intoxicating drug or other thing liable to confiscation under this or any other law for the time being in force relating to ábkárí-revenue is kept or concealed.

All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure by a Police-officer or by an Ábkárí-officer duly empowered in this behalf, or, if the officer issuing the warrant deems fit, by any other person.

Disposal of person arrested or thing seized.

41. Every person arrested and thing seized under section 36, 37 or 40 shall be forwarded without delay to the officer in charge of the nearest Police-station, who shall inquire into and deal with the case as one of an offence for which the Police may arrest without a warrant.

Closing of shop for sake of public peace.

42. It shall be lawful for the Collector by notice in writing to the licensee to require that any shop in which liquor or any intoxicating drug is sold by retail shall be closed at such times as he may deem it necessary for the sake of public peace and order that such shop should remain closed.

In the event of the occurrence of a riot or unlawful assembly in the vicinity of any such shop, it shall be lawful for any Magistrate or Police-officer who is present, to require such shop to be kept closed for such period as he deems fit.

X.—Penalties.

For illegal import, &c.

43. Whoever, in contravention of this Act, or of any rule or order made under this Act, or of any license, permit or pass obtained under this Act,

(*a*) imports or exports liquor or any intoxicating drug into or out of any part of the Presidency of Bombay, or

(*b*) transports or removes liquor or any intoxicating drug from one place to another, or

(*c*) manufactures liquor or any intoxicating drug, or

(*d*) draws toddy from any tree, or

(*e*) constructs or works any distillery or brewery, or

(*f*) uses, keeps or has in his possession any material, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing liquor or any intoxicating drug, or

(*g*) sells liquor or any intoxicating drug,

shall be punished for each such offence with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

For neglect to keep measures, &c.

44. Whoever, in contravention of this Act, or of any rule or order made under this Act, or of any license, permit or pass obtained under this Act,

(*a*) neglects to supply himself with measures for measuring liquor, or with instruments for testing the strength of liquor, or to keep the same in good condition, or

(*b*) refuses to measure or test the strength or quality of any liquor in his possession,

shall be punished for each such offence with fine which may extend to two hundred rupees.

For misconduct by licensee, &c.

45. Whoever, being the holder of a license, permit or pass granted under this Act,

(*a*) fails to produce such license, permit or pass on the demand of any Abkári-officer duly empowered to make such demand, or of any officer of the departments named in section 39 superior in rank to a peon or constable, or

(*b*) wilfully does, or omits to do, anything in contravention of any rules or orders made under this Act, or

(*c*) commits any act in breach of any of the conditions of his license not otherwise provided for in this Act, or

(*d*) wilfully contravenes any rule prescribed by a Commissioner for the management of a public distillery established under section 15 of this Act, or

(*e*) commits any act in breach of the conditions on which he is permitted to manufacture liquor in any such public distillery, or

(*f*) permits drunkenness, riot or gaming in any shop or place in which such liquor or drug is sold or manufactured, or

(*g*) permits persons of notoriously bad character to meet or remain in any such shop or place,

shall be punished for each such offence with fine which may extend to one hundred rupees.

For misconduct by licensed vendor or manufacturer.

46. Whoever, being the holder of a license for the sale or manufacture of liquor or of any intoxicating drug under this Act,

(*a*) mixes or permits to be mixed with the liquor or intoxicating drug sold or manufactured by him any noxious drug or any foreign ingredient likely to add to its actual or apparent intoxicating quality or strength, or any article prohibited by any rule made under section 35, clause (*k*), when such admixture shall not amount to the offence of adulteration under section 272 of the Indian Penal Code, or

(*b*) sells or keeps, or exposes for sale, as European or foreign liquor, liquor which he knows or has reason to believe to be country-liquor, or

(*c*) marks the cork of any bottle, or any bottle, case, package or other receptacle, containing country-liquor, or uses any bottle, case, package or other receptacle containing country-liquor, with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains European or foreign liquor, when such act shall not amount to the offence of using a false trade-mark with intent to deceive or injure any person under section 482 of the Indian Penal Code, or

(*d*) sells or keeps, or exposes for sale, any country-liquor in a bottle, case, package or other receptacle with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains European or foreign liquor, when such act shall not amount to the offence of selling goods marked with a counterfeit trade-mark under section 486 of the Indian Penal Code,

shall be punished for each such offence with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

For illegal possession of liquor, &c.

47. Whoever, except under the authority of some license, permit, pass or special order obtained under this Act, has in his possession within any local area or place to which the provision of section 17 has been applied, any larger quantity of country-liquor or of any intoxicating drug than may legally be sold by retail under the provision of the said section, shall be punished with fine which may extend to two hundred rupees.

For maliciously giving

48. Whoever maliciously gives false information that any person has committed, or been concerned in, any offence against this Act, with the

intent that such person be arrested, or that any building, vessel or other place be searched to the injury or annoyance of such person or of any other person, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both. false information.

49. Any Ábkárí or other officer who, without reasonable ground of suspicion, enters or searches, or causes to be searched, any building, vessel or place, For vexatious search or arrest.

or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act,

or vexatiously and unnecessarily detains, searches or arrests any person,

shall, for every such offence, be punished with fine which may extend to five hundred rupees.

50. Any Ábkárí or other officer or person who vexatiously and unnecessarily delays forwarding to the officer in charge of the nearest Police-station as required by section 41 of this Act, any person arrested, or any illicit articles seized under this Act, shall be punished with fine which may extend to two hundred rupees. For vexatious delay.

51. Any Ábkárí or other officer who unlawfully releases or connives at the escape of any person arrested under this Act, or connives at the commission of any offence against this Act, or For conniving at escape of persons arrested, &c.

acts in any manner inconsistent with his duty for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or broken, or the ábkárí-revenue defrauded,

and any officer of any other department named in section 39 invested with local jurisdiction who connives at the commission of any offence against this Act in any place within his jurisdiction,

shall, for every such offence, be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

52. Any officer of any of the departments named in section 39 who, without lawful excuse, neglects or refuses to assist any Ábkárí-officer in carrying out the provisions of this Act, shall be punished with fine which may extend to five hundred rupees. For neglecting to assist an Ábkárí-officer.

53. In prosecutions under section 43 or section 47, it shall be presumed, until the contrary is proved, that the accused person has committed an offence under those sections in respect of any liquor or intoxicating drug, or any still, utensil, implement or apparatus whatsoever for the manufacture Presumption as to commission of offence in certain cases.

of liquor or intoxicating drugs, or any such materials as are ordinarily used in the manufacture of liquor or of any intoxicating drug, for the possession of which he is unable to account satisfactorily;

and the holder of a license, permit or pass under this Act shall be responsible, as well as the actual offender, for any offence committed by any person in his employ or acting on his behalf under section 43, 44, 45 or 46 as if he had himself committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence.

Things liable to confiscation.

54. All liquor or intoxicating drugs imported, exported, transported, removed, manufactured, sold or had in possession in contravention of this Act, or of any rule or order made under this Act, or of any license, permit or pass obtained under this Act, and

all toddy drawn from any tree in contravention of this Act, or of any such rule, order, license, permit or pass as aforesaid; and

all liquor, if any, and all intoxicating drugs, if any, lawfully imported, exported, transported, removed, manufactured, sold or had in possession, and all toddy, if any, lawfully drawn, along with, or in addition to, any liquor or intoxicating drugs, imported, exported, transported, removed, manufactured, sold or had in possession, or along with, or in addition to, any toddy drawn as aforesaid; and

all stills, utensils, implements or apparatus whatsoever for the manufacture of liquor or of any intoxicating drug, used, kept or had in possession in contravention of this Act, or of any rule or order made under this Act, or of any license obtained under this Act; and

all materials collected or had in possession for the purpose of unlawfully manufacturing liquor or any intoxicating drug, and

the vessels, packages and coverings in which any liquor, intoxicating drug, still, utensil, implement, apparatus or material aforesaid, is found, and the other contents, if any, of the vessel or package in which the same is found, and the animals, carts, vessels or other conveyances used in carrying the same,

shall be liable to confiscation.

Order of confiscation by whom to be made.

55. All confiscations under this Act shall be adjudged by the Collector:

Provided that no order of confiscation shall be made until the expiration of one month from the date of seizing the things intended to be confiscated, or without hearing any person who claims a right thereto, and the evidence, if any, which he produces in support of his claim.

Redemption

Whenever confiscation is ordered under this Act, the owner of the thing

ordered to be confiscated may, at the discretion of the Collector, be given an option of redeeming it on payment of such fine as the Collector thinks fit. may be allowed.

XI.—Procedure.

56. All offences against this Act shall be cognizable by a Magistrate. Cognizance of offences.

57. The provisions of sections 64 to 70, both inclusive, of the Indian Penal Code shall apply to all fines inflicted by a Magistrate under this Act; and any imprisonment awarded under this Act may be of either description within the meaning of the Indian Penal Code. Applicability of certain portions of Indian Penal Code.

58. All things confiscated under this Act shall be disposed of in such manner as the Commissioners from time to time direct in rules or orders made either generally or in any particular instance in this behalf. Disposal of things confiscated.

59. Government may from time to time make rules for regulating the payment of rewards to officers and informers out of the proceeds of fines and confiscations under this Act. Payment of rewards.

60. All orders passed by any Ábkárí-officer other than the Collector or Commissioner under this Act, shall be appealable to the Collector at any time within sixty days from the date of the order complained of. Appeals.

All orders passed by a Collector or Commissioner shall be appealable to the Commissioner or to Government, respectively, at any time within ninety days from the date of the order complained of:

Provided that no appeal shall lie against an order passed by a Commissioner on appeal.

Subject to the foregoing provisions, the rules for the time being in force relating to appeals in the Revenue Department shall apply to appeals under this Act.

XII.—Miscellaneous.

61. Nothing in this Act affects Act XVIII of 1853[a] (*An Act for regulating the sale of spirituous liquors, &c., in Cantonments*), or sections 21 to 27, both inclusive, of Bombay Act III of 1867[b] (*An Act to make provision for the administration of Military Cantonments in the Bombay Presidency*), or Act XVI of 1863[c] (*An Act to make special provision for the levy of the excise-duty payable on spirits used exclusively in arts and manufactures or in chemistry*), Saving of certain Acts.

[a] See General Acts, vol. I, p. 121.
[b] See *supra*, p. 265.
[c] See General Acts, vol. I, p. 630.

or any enactment passed by the Governor General in Council since the sixteenth November, 1861, the date on which the Indian Councils Act came into force.

Exception of medicated articles.

62. Nothing in the foregoing provisions of this Act applies to the manufacture, sale or supply of any *bonâ fide* medicated article for medicinal purposes by medical practitioners, chemists, druggists, apothecaries or keepers of dispensaries; but it shall be lawful for Government at any time, by notification in the *Bombay Government Gazette*, to prohibit the sale of any such article within any defined local area or place except under a license from the Collector, which shall be granted on payment of such fees and subject to such conditions as Government may deem fit to prescribe.

Annual payment to Bombay municipal Corporation in lieu of money received under Bombay Act IX of 1867.

63. Whereas it was provided by section 14 of Bombay Act IX of 1867[a] that all money realized, collected or obtained by the issue of licenses, or by forfeitures or by imposition or infliction of fines and penalties under the said Act should be carried to the credit of the municipal fund of the city of Bombay for municipal purposes, it is hereby enacted that, in lieu of the money hitherto so received by the municipal Corporation of the city of Bombay, a fixed sum of Rs. 1,43,750 shall, from and after the first day of August, 1878, be annually paid by Government to the said Corporation for the said purposes.

Special ábkárí-rights of owner of Poway estate to cease.

64 Whereas a certain estate known as "The Poway Estate" and situate in the island of Salsette in the Tanna collectorate was assigned by the East India Company to one Framji Cawasji under an indenture bearing date the fifteenth day of February, 1837, in virtue of which indenture the legal representative of the said Framji Cawasji, now deceased, is entitled, amongst other things, to certain rights and immunities in respect of the ábkárí-revenue of the said estate; and whereas it is detrimental to the general ábkárí-revenue of the district that such exceptional rights and immunities should be continued; it is enacted that on and after the date on which this Act comes into operation, the said rights and immunities shall cease and determine, and the general provisions of this Act shall have effect in the said estate as if the said indenture had never been executed:

Compensation to be paid by Government.

Provided that compensation shall be payable by Government to the Receiver for the time being duly appointed by the High Court of Judicature at Bombay in its ordinary original civil jurisdiction in suit 877 of 1870, wherein Mithibai, widow, and others are plaintiffs, and Limji Nowroji Banaji and others are defendants, being a suit for the administration of the estate of the said Framji Cawasji for the loss and determination of the said rights and

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[a] Repealed by this Act.

immunities, and that if such Receiver is dissatisfied with the amount of compensation offered by Government, the amount to be paid and all other questions in respect of such payment may be referred to the arbitration of such person as may be agreed upon by Government and such Receiver, whose decision shall be final, or in default of such reference that the amount of such payment and such other questions as aforesaid shall be determined under the provisions of the Land Acquisition Act of 1870,[a] so far as the same may be applicable as if the said rights and immunities were land situate in the Tanna district required for public purposes:

The amount, &c., being determined, if necessary, under Act X of 1870.

Provided, further, that the payment of compensation to such Receiver shall bar all claims of any other person against Government in respect of the same.

Payment of compensation to bar further claim.

65. And whereas the villages of Mallar, Daiunser, Magaton, Tulsi, Arrem, Exur, Kanari and Pahadi, in the said island of Salsette, were assigned by the East India Company to Cursetjee Ardaseer and Jehangeer Ardaseer under an indenture dated the twenty-fifth January, 1819, in virtue of which indenture the said Cursetjee Ardaseer and Jehangeer Ardaseer and their legal representatives are entitled to have, hold and enjoy all and singular the brab and other trees, and all other produce of any kind whatsoever grown or produced on the lands thereby assigned free and clear of, and without being subject to, any taxation or assessment whatever; and whereas it is deemed expedient that the holders of the said villages shall be neverthless subject to all the provisions of this Act as if the said indenture had never been executed; It is enacted that, on and after the date on which this Act comes into operation, all right of exemption to which the holders of the said villages may on such date be entitled under the said indenture from any duty, tax or fee, imposed or imposeable under this Act, shall cease and determine:

Certain rights of exemption in respect of certain villages in Salsette to cease.

Provided that compensation shall be payable by Government to the said Cursetjee Ardaseer and Jehangeer Ardaseer, or to such other person as may be lawfully in possession of the said villages or of any portion thereof, for any loss that may arise by reason of the determination of such right of exemption, and that if the said Cursetjee Ardaseer, Jehangeer Ardaseer, or other person, or any of them, is dissatisfied with such amount of compensation as may be offered by Government, the amount to be paid and all other questions in respect of the right to compensation may be referred to the arbitration of such person as may be agreed upon by Government and the said Cursetjee Ardaseer, Jehangeer Ardaseer or other person aforesaid, whose decision shall be final, or, in default of such reference, that the amount of such payment and such

Compensation to be paid by Government.

Amount &c.,

[a] See General Acts, volume II, p. 1226.

to be determined, if necessary, under Act X of 1870.

questions aforesaid shall be determined under the provisions of the Land Acquisition Act, 1870, so far as the same may be applicable, as if the said right of exemption were land situated in the Tanna district required for public purposes:

Payment of compensation to bar further claim.

Provided, further, that the payment of compensation to the said Cursetjee Ardaseer, Jehangeer Ardaseer or other person, in respect of the said villages or any portion thereof, shall bar all claims of any other person against Government in respect of the same.

Provisions of last section extendible to other villages.

66. Any holder of a village in the island of Salsette other than the villages mentioned in the last preceding section, who shall apply to the Governor in Council at any time within three months after this Act comes into force, and shall establish to the satisfaction of the Governor in Council that he holds his said village under an indenture containing the same terms as to exemption from taxation or assessment, or terms to the like effect, as those contained in the said indenture of the twenty-fifth January, 1819, shall be entitled to be dealt with in the same manner as the holders of the villages named in the last preceding section, and in any such case the provisions of the last preceding section shall apply as if such holder's village had been specifically named therein.

Bar of actions.

67. No action shall lie against Government, or against any Ábkárí-officer for damages in any civil Court for any act *bonâ fide* done or ordered to be done by them in pursuance of this Act, or of any law at the time in force relating to ábkárí-revenue;

and all prosecutions of any Ábkárí-officer, and all actions which may be lawfully brought against Government or against any Ábkári-officer, in respect of anything done, or alleged to have been done, in pursuance of this Act, shall be instituted within four months from the date of the act complained of, and not afterwards;

and any such action shall be dismissed

(*a*) if the plaintiff does not prove that, previously to bringing such action, he has presented all such appeals allowed by this Act, or by any other law for the time being in force, as within the aforesaid period of four months it was possible to present; or,

(*b*) in the case of an action for damages, if tender of sufficient amends shall have been made before the action was brought, or if after the institution of the action a sufficient sum of money is paid into court with costs, by or on behalf of the defendant:

Provided that nothing in this section shall be deemed to affect the powers or jurisdiction of Her Majesty's High Court of Judicature or of the Court of Small Causes at Bombay.

SCHEDULE.

(*See section 2*).

Enactment.	Subject.	Extent of repeal.
Reg. XXI of 1827.	Spirituous liquor	So much of chapters X, XI, XII and XIII as has not already been repealed.
Reg. XXII of 1827.	Military Authority.	Sections twenty-nine and forty-eight to fifty-five, both inclusive, so far as they have not already been repealed.
Act III of 1852	Spirituous and intoxicating liquors and drugs.	The whole Act so far as it has not already been repealed.
Act XXXIV of 1857.	Sale of gánja ...	Ditto.
Act XVII of 1859.	Abkárí-revenue in the Island of Bombay.	Ditto.
Bombay Act IX of 1867.	Ditto ...	Ditto.
Bombay Act I of 1878.	Ditto ..	The whole Act.

ACT No. VI OF 1878.

Received the Governor's assent on the 30th of September, 1878, and the Governor General's assent on the 28th of October, 1878, and published by the Governor on the 31st of October, 1878.

An Act to remove doubts as to the time when certain portions of the Bombay Municipal Act Amendment and Continuance Act, 1878, were intended to come into force.

Preamble. WHEREAS, by the second paragraph of section one of the Bombay Municipal Act Amendment and Continuance Act, 1878,[a] it was provided that so much of the said Act as relates to any rate or tax leviable by the Corporation other than town-duties, should be deemed to have come into force on the first

[a] See *supra*, p. 503.

day of January, 1878, and that the rest of the Act should come into force on the passing thereof; and doubts are entertained as to the meaning of the words "on the passing thereof," and as to the effect of the said provision in respect of the levy of town-duties fixed by the Corporation under section 115 of the Bombay Municipal Act of 1872[a] for the year 1878, and it is expedient to remove such doubts;

And whereas, owing to the assent of the Governor General to the said Act not having been published before the first July, 1878, the provisions of section 9D of the Bombay Municipal Act of 1872, as amended by the said Act, were not in force during the first half of the year 1878, and doubts are entertained as to whether the list of persons qualified to be elected or appointed members of the Corporation and of persons qualified to vote at rate-payers' elections could be prepared as required by that section, so as to have legal validity, but a list was nevertheless prepared and published by the Municipal Commissioner, and notice of such publication was given by him on the second July, 1878, in the manner intended by the said section 9D, and it is expedient to give legal validity to the list so prepared and published; It is enacted as follows:—

Paragraph substituted for para 2, section 1 of Bombay Act IV of 1878.

1. The following paragraph shall be and be deemed to have always been substituted for the second paragraph of section one of the Bombay Municipal Act Amendment and Continuance Act, 1878, (namely):—

[See *supra*, p. 563.]

List of voters, &c., prepared by Municipal Commissioner during first half of year 1878 to be valid.

2. The list of persons qualified to be elected or appointed members of the Corporation and of persons qualified to vote at rate-payers' elections, prepared by the Municipal Commissioner as aforesaid, shall be deemed for all purposes of the Bombay Municipal Acts of 1872 and 1878 to have been duly prepared and published under section 9D of the Bombay Municipal Act of 1872, as amended by the Bombay Municipal Act Amendment and Continuance Act, 1878.

ACT No. VII OF 1878.

Received the Governor's assent on the 24th of September, 1878, and the Governor General's assent on the 11th of November, 1878, and published by the Governor on the 22nd of November, 1878.

An Act to amend the law for the prevention of adulteration of cotton and for the suppression of fraudulent practices in the cotton-trade.

Preamble.

WHEREAS it is expedient to amend the law for the prevention of adulter-

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[a] See *supra*, p. 320.

ation of cotton, and for the suppression of fraudulent practices in the cotton-trade; It is enacted as follows:—

PRELIMINARY.

1. This Act may be cited as "The Bombay Cotton Frauds Act, 1878:" Short title.

It extends to the whole of the Presidency of Bombay except Aden. Extent.

2. Bombay Act IX of 1863 is hereby repealed. Repeal of Bombay Act IX of 1863.

All appointments made, orders issued, notifications published, and rules prescribed under the said Act, and now in force, shall, so far as they are consistent with this Act, be deemed to have been respectively made, issued, published and prescribed hereunder.

And all proceedings which have been commenced under the said Act shall be deemed to have been commenced under this Act, and shall hereafter be conducted in accordance with the provisions of this Act, provided that no persons shall be liable for any offence committed before the passing of this Act to a higher penalty than he would have been liable to if this Act had never been passed.

3. In this Act, unless there be something repugnant in the subject or context— Interpretation-clause.

(1) "bale" includes a dockra or any other package of cotton; "Bale."

(2) "press" includes every kind of machinery used for the purpose of compressing cotton; "Press."

(3) "foreign export" means export out of British India; "Foreign export."

(4) "British India" means the territories for the time being vested in Her Majesty by the Statute 21 & 22 Vic., cap. 106 (*An Act for the better government of India*), other than the Settlement of Prince of Wales' Island, Singapore and Malacca; "British India."

(5) "imprisonment" means imprisonment of either description within the meaning of the Indian Penal Code. "Imprisonment."

APPOINTMENT AND DUTIES OF OFFICERS.

4. The Governor in Council may appoint such and so many officers, to be styled "Inspectors of Cotton," as shall from time to time appear expedient; Inspectors of Cotton.

the said inspectors shall be subordinate, in the city of Bombay to the Commissioner of Customs, and in all other parts of the Presidency to the Collector of the district in which they hold their appointments, or in which they are at the time employed, and shall be liable to suspension or dismissal by order of the Governor in Council for neglect or misconduct in the discharge of their duties.

Duties of Inspectors.

5. It shall be the duty of the Inspectors of Cotton to suppress the use of presses which have not been licensed under this Act, and to examine cotton offered for compression, or exposed or intended for sale.

Power to enter buildings or enclosures.

In the execution of the said duty, it shall be lawful for an Inspector of Cotton at all times to enter any building or enclosure within which he has reason to believe that any press is at work, or is prepared for work, or that the packing of cotton in dockras is being carried on.

Power to seize cotton.

6. It shall be lawful for an Inspector of Cotton to seize and detain any cotton, wherever the same may be, which he has reason to believe is liable to confiscation under this Act, and to give the same into the custody of any Police-officer:

Police-officers bound to assist.

every Police-officer shall be bound to assist an Inspector of Cotton in seizing and detaining such cotton;

Proviso.

but it shall not be competent to any Inspector of Cotton, unless under a Magistrate's search-warrant, to open any bale which has been finally pressed for foreign export.

Inspector seizing cotton to apply for summons.

7. Every Inspector who shall seize and detain any cotton under this Act shall, within seven days from the date of such seizure and detention, apply for and obtain a summons from a Presidency Magistrate in the city of Bombay if such seizure and detention shall have taken place in that city, but if elsewhere, then from a first or second class Magistrate, directed to the person in whose possession the same was found, and requiring him, upon a day therein named, to show cause why such cotton should not be confiscated.

If such Inspector shall not apply for and obtain such summons within the time aforesaid, such cotton shall be returned to the person in whose possession the same was found, and shall not be liable to re-seizure or detention.

Subordinates and their powers.

8. Every Inspector of Cotton shall have such number of subordinates as the Governor in Council from time to time directs, and it shall be lawful for such subordinates to exercise such of the powers conferred by this Act on an Inspector as the Inspector to whom they are subordinate may from time to time by writing under his hand depute them to exercise.

Press-licenses.

Presses to be licensed.

9. No press shall be used for the purpose of compressing cotton without a license obtained in the manner hereinafter prescribed.

Grant of licenses.

10. Every application for a license for working a press shall be made to the Collector of the district within which such press is to be worked, or to such other officer as the Governor in Council directs, and shall be accompanied by a written statement of the power which it is intended to employ in working the said press.

The Collector or other officer may, if he is satisfied that the applicant is in possession of the press for which the license is applied for, grant him a license; the license so granted shall expire on the first day of January of the next ensuing year, but, subject to such rules as may from time to time be prescribed by the Governor in Council in this behalf, shall be renewable from year to year on the first day of January; and upon the removal to another locality of a press included in any license, or renewed license, so granted, or upon change of the power employed for working the same, it shall be necessary for the licensee to apply to the Collector or other officer for a new license.

The Collector or other officer may, for reasons which he shall give to the applicant in writing under his signature, refuse to grant or to renew any such license.

License what to contain

11. Every such license may be for one or more presses, and shall specify

(*a*) the number of presses for which it is granted;

(*b*) the locality in which the said presses are situated;

(*c*) the power to be employed for working the said presses;

License-fee.

and for every such license a fee shall be levied at the rate set forth in the schedule to this Act annexed.

Press-marks.

12. It shall be incumbent on every applicant for any such license to lodge with the Collector or other officer aforesaid, a pattern on cloth, parchment or paper, of the press-mark which it is intended to use at the press for which a license is applied for.

Every press-mark shall consist of some distinctive mark, not less than one foot square in size, or of the applicant's name, or of the name of his firm or company, in letters not less than one inch and a half long, which letters, for any press in the city of Bombay, must be in the English language.

Every press-license granted under this Act shall be deemed to be also a license for the use, at the press for which it is granted, of the press-mark of which a pattern has been lodged under this section with the Collector or other officer; and the licensee shall be bound to mark the wrapper underlying the fastenings or bands of every bale compressed by the said press, or cause the same to be marked, with the said press-mark.

License may be cancelled or suspended.

13. Any Magistrate or Court before whom, or which, a licensee is convicted of an offence under section 17 of this Act, or before whom a licensee, or any servant or agent of a licensee, is convicted of offering obstruction to an Inspector of Cotton, or to any of his subordinates, in the execution of their duty, may cancel such licensee's license, or direct that it be suspended for such period as he or it deems fit.

PENALTIES, OFFENCES AND PROSECUTIONS.

Penalties when cotton found fraudulently adulterated or mixed.

14. If, upon the hearing of the summons issued under section 7 of this Act, the Magistrate or Court be satisfied that any cotton seized and detained under the provisions of section 6 of this Act—

(*a*) has been fraudulently or dishonestly adulterated or deteriorated, or increased in weight by mixing therewith seed, dirt, stones or other foreign matter, or by exposing it to dew or by any other means, or

(*b*) that such cotton is a mixture fraudulently or dishonestly made of cleaned and uncleaned cotton (commonly called kapás), or of different varieties or qualities in one bale,

the Magistrate or Court shall order—

that such cotton be confiscated and destroyed, or

that such cotton be confiscated, cleaned and sold, or

that such cotton be cleaned by or under the direction of the Inspector of Cotton, and that such Inspector do return such cotton when so cleaned to the person in whose possession the same was found, upon payment by him of the expenses of cleaning such cotton together with such fine as such Magistrate or Court shall direct; and that, in default of such payment, such cotton be sold, and the proceeds thereof, after deducting such fine and the expenses of cleaning and sale, be paid to such person as aforesaid.

Penalty for using press without license.

15. Whoever knowingly uses, or attempts to use, any press for the compression of cotton, or causes or permits the same to be used, without previously obtaining a license, or a renewed or new license, in accordance with the provisions of this Act, or after any such license has been refused or cancelled, or during the period for which the same is suspended, shall be punished with fine which may extend to one thousand rupees.

Penalty for counterfeiting press-mark; for using unlicensed press-mark.

16. Any person who knowingly counterfeits any press-mark which any other person has been licensed under this Act to use, or

who marks any bale, or causes or permits the same to be marked, with a press-mark which he is not licensed to use,

shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

Penalty for neglect to mark bale with press-mark.

17. Any licensee who neglects to mark any bale compressed at his press with the press-mark which he is licensed to use, or to cause the same to be so marked, shall be punished for every such neglect with fine which may extend to one hundred rupees.

Cognizance

18. All proceedings and offences under this Act shall be cognizable, subject

to the provisions of any law for the time being in force for the trial of offences, by a Presidency Magistrate in the city of Bombay, and elsewhere by any criminal Court exercising powers not inferior to those of a second class Magistrate: Provided always, that no person shall be proceeded against on account of any such offence except by summons on information laid by an Inspector of Cotton or some other person. of offences.

19. It shall not be necessary in any proceeding for any offence under this Act to prove an intent to defraud any particular person. Proof of fraudulent intention.

20. The provisions of sections 64 to 70, both inclusive, of the Indian Penal Code, shall apply to all fines imposed under this Act; and all such fines shall be recoverable in the city of Bombay in the manner prescribed by Act IV of 1877 (The Presidency Magistrates' Act) or any other Act for the time being in force regulating the Police of the city of Bombay. Recovery of fines.

MISCELLANEOUS.

21. A fee at such rate, not exceeding two annas, as the Government from time to time direct by notification in the *Bombay Government Gazette*, shall be levied upon every bale of cotton not belonging to the Government exported from any part of the Presidency of Bombay to any port or place other than a port or place in British India. Fees leviable on certain cotton.

22. Nothing in this Act shall affect the civil rights of any person in any manner interested in any cotton confiscated or ordered to be cleaned and sold under the provisions of this Act; but every such person shall have the same right of action as if this Act had not been passed, and all fines, cleaning and sale-charges paid, and legal and other expenses and losses incurred and sustained in consequence of the seizure and detention of such cotton and consequent thereon, shall be part of the damages recoverable in such action. Persons interested in cotton seized not affected in civil rights, and may recover expenses, &c., in consequence of seizure.

SCHEDULE.

(*See section 11*).

Table of Fees leviable for Press-Licenses.

For every press for which the license is granted which is to be worked by manual labour alone	Rs.	1	0	0
Do. do. do. by animal or manual labour alone	,,	2	0	0
Do. do. do. by steam or other power	,,	5	0	0

ACT No. I OF 1879.

Received the Governor's assent on the 24th of February, 1879, and the Governor General's assent on the 27th of March, 1879, and published by the Governor on the 29th of March, 1879.

An Act to facilitate the introduction of the Bombay District Municipal Act into Sindh.

Preamble

WHEREAS the Bombay District Municipal Act[a] was, on the twenty-sixth day of July, 1878, extended by the Government of Bombay, with the previous sanction of the Governor General in Council, in virtue of the power conferred by section 5 of the Scheduled Districts Act, 1874,[b] to the Province of Sindh with effect from the first October, 1878; and whereas difficulties have arisen in introducing the said Act into the said Province owing, amongst other reasons, to certain portions of the said Act having been repealed by the Repealing Act, 1876,[c] previous to the date of the said extension; and whereas doubts are entertained as to whether the said Act did not legally apply to the said Province from the date of the publication of the assent of the Governor General thereto; and whereas it is expedient to remedy the said difficulties and to remove the said doubts; It is enacted as follows:—

Commencement in Sindh of Bombay Act VI of 1873.

1. The Bombay District Municipal Act shall be deemed to have come into force in the Province of Sindh on the first day of October, 1878, and not at any previous time.

Expressions defined.

2. Throughout the said Act the phrases "the date of this Act coming into force," "the date of the passing of this Act," and the like, shall, in Sindh, be deemed to mean the said first day of October, 1878.

"*Sindh official Gazette*" substituted for "*Bombay Government Gazette.*"

3. The words "*Sindh Official Gazette*" shall, in Sindh, be deemed to be and to have always been substituted for the words "*Bombay Government Gazette*" wherever they occur in the said Act.

Repeal of Acts in Sindh.

4. Act XXVI of 1850[d] and Bombay Acts II[e] and IX[f] of 1862 and I of 1871[g] shall be deemed to have been repealed, in Sindh, on and from the said first day of October, 1878, except as to any assessment made, act done, liability incurred, money due or proceedings commenced thereunder:

Provided that such repeal shall not take or be deemed to have taken effect in any place to which the said Acts have been applicable until six months from the said first day of October, 1878, or until such date within the said period of six months as such place shall be, or shall have been, included in a municipal district constituted under the Bombay District Municipal Act.[h]

Application of

5. The provisions of clauses 1 to 3 of section 4 of the Bombay Dis-

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a h See *supra*, p 433. b See General Acts, volume III, p. 1933. c Spent.
d, e f, g Repealed by Bombay Act No. VI of 1873.

trict Municipal Act shall not be, and shall not be deemed at any time to have been, applicable to municipalities in Sindh formed under Act XXVI of 1850,[a] which the Commissioner in Sindh may deem or may have deemed fit to declare, by notification in the *Sindh Official Gazette*, municipal districts under the said Bombay District Municipal Act.[b]

section 4, clauses 1 to 3, of Bombay Act VI of 1873 to Sindh.

Any such declaration shall be deemed sufficient authority for the constitution of the municipality to which it relates into a municipal district under the said Act.

6. Whenever any municipality has been so declared to be a municipal district under the said Act, no suit, prosecution or other proceeding to which the Municipal Commissioners appointed under Act XXVI of 1850 were a party, and which was pending at the date on which such municipal district was constituted, shall abate, or be in anywise affected by the operation of the said Bombay District Municipal Act or of this Act, and all decrees and orders made, and all fines and penalties imposed and incurred, previous to the said date, shall be respectively enforceable and leviable, and all administrative proceedings commenced previous to the said date may be proceeded with and completed, as if the said Acts had not been passed.

Saving of pending proceedings, &c., in which Municipal Commissioners under Act XXVI of 1850 are concerned.

And the municipality constituted under the said Bombay District Municipal Act shall in all such matters as are aforesaid occupy the place of the Municipal Commissioners aforesaid.

ACT No. II OF 1879.

Received the Governor's assent on the 24th of February, 1879, and the Governor General's assent on the 22nd of March, 1879, and published by the Governor on the 5th of April, 1879.

An Act to further amend Act XIII of 1856.

WHEREAS Act XIII of 1856[c] (*An Act for regulating the Police of the Towns of Calcutta, Madras and Bombay*) was amended, so far as concerns the Bombay City Police Force, by Bombay Act I of 1872,[d] and it is expedient to further amend the said Act in manner hereinafter appearing; It is enacted as follows:—

Preamble.

1. For the word "pay" in the section substituted by section 2 of Bombay Act I of 1872, for section 17 of the said Act, the words "salary and authorized allowances" shall be substituted.

Amendment of section 17, Act XIII of 1856.

2. For the words "upon a reduction of the Force" in section 7 of Bombay Act I of 1872, the words "for any reason other than his own misconduct" shall be substituted.

Amendment of section 7 of Bombay Act I of 1872.

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[a] Repealed by Bombay Act No. VI of 1873.
[b] See *supra*, p. 433
[c] See *supra*, p. 73.
[d] See *supra*, p. 305.

ACT No. III OF 1879.

Received the Governor's assent on the 24th of February, 1879, and the Governor General's assent on the 10th of May, 1879, and published by the Governor on the 27th of May, 1879.

An Act to provide for the levy of fees for the use of Government landing-places in the Port of Karáchí.

Preamble. WHEREAS it is expedient to provide for the levy of fees for the use of the Government landing-places in the port of Karáchí; It is enacted as follows:—

Short title. 1. This Act shall be called "The Karáchí Landing and Wharfage Fees Act of 1879."

"Landing-place" defined. 2. In this Act the term "landing-place" includes a bandar, wharf, pier, jetty, hard and any place used for the landing, shipping, wharfage, cranage or storage of goods.

Governor in Council to fix limits of bandars, &c., and fees to be levied. 3. It shall be lawful for the Governor in Council from time to time, by notification in the *Bombay Government Gazette* and in the *Sindh Official Gazette*,

(*a*) to determine the limits of any Government landing-place to which the provisions of this Act shall apply;

(*b*) to fix the fees to be levied—

(1) for the landing, shipping, wharfage, cranage, storage or demurrage of goods at; and

(2) for permitting animals or vehicles to bring or remove goods to or from, or to ply for hire at; and

(3) for permitting vessels or boats to approach or lie alongside,

any such landing-place:

Provided that it shall be lawful for the Governor in Council at any time to exempt any goods, vessel, boat, animal or vehicle, either wholly or partially, from any fee to which the same may be liable under this section.

Powers and duties under Act by whom to be exercised and performed 4. The levy of fees under this Act shall be made, and all other powers and duties conferred and imposed by this Act or by any bye-laws made hereunder shall be exercised and performed, by such officers as the Governor in Council shall from time to time direct, or by such persons as he shall from time to time appoint in this behalf.

Powers, privileges and liabilities of officers who collect fees. 5. The officers and persons whose duty it may be to levy fees under this Act shall have the same powers for collecting and enforcing payment of the same as are exercisable under the provisions of any law for the time being in force in respect of duties of sea-customs by the Collector of customs and his subordinates, and shall have the same privileges and be subject to the same liabilities in respect of anything done by them in collecting and enforcing

payment of the said fees, as the said Collector of customs and his subordinates have, or are liable to, under the provisions of any such law.

Punishment of offenders.

The law for the time being in force for the punishment of offences relating to the levy or payment of duties of sea-customs, and for the reward of informers, shall, as far as may be, apply to similar offences committed in respect of the said fees.

Tables of fees to be posted up.

6. Tables of the fees leviable under this Act in the English, Sindhí and Guzaráthí languages shall be posted up in some conspicuous position at every landing-place at which such fees are leviable.

Power to make bye-laws.

7. The Commissioner in Sindh may, with the previous sanction of Government, from time to time make, and from time to time alter or repeal, bye-laws not inconsistent with the provisions of this Act

(*a*) regulating the use of every landing-place to which this Act applies;

(*b*) providing for the management of the traffic over, on and about, and to and from, every such landing-place; and

(*c*) generally for the guidance of all persons in matters connected with the enforcement of this Act.

The bye-laws so made, and every alteration of the same and every order repealing the same or any portion thereof, shall be published in the *Bombay Government Gazette* and in the *Sindh Official Gazette*.

Fees realized how applied.

8. The proceeds of all fees realized under this Act shall be applied

(*a*) in payment of the expenses of the administration of this Act;

(*b*) in defraying the cost of acquiring or constructing new landing-places required for the convenience of the trade of the port of Karáchí or the interest on any moneys expended in any such acquisition or construction; and

(*c*) in maintaining and improving any existing landing-place and generally in the improvement of the said port.

Yearly accounts to be published.

Accounts of all receipts and expenditures under this Act shall be published once in every year in the *Bombay Government Gazette* and in the *Sindh Official Gazette*.

Indemnity.

9. The levy of wharfage-dues heretofore made in the port of Karáchí in conformity with a notification of the Governor in Council dated the twenty-third October, 1865, and published at page 1039 of the *Bombay Government Gazette* of the twenty-sixth October, 1865, shall be deemed to have been lawfully made, and all officers are hereby indemnified in respect of any thing done by them under the authority of the said notification which might have been done if the said notification had been lawfully made, and no suit shall be maintained against Government or against any officer of Government in respect of any thing so done.

ACT No. IV OF 1879.

Received the Governor's assent on the 24th of February, 1879, and the Governor General's assent on the 14th of April, 1879, and published by the Governor on the 27th of June, 1879.

An Act to prohibit the practice of inoculation, and to make the vaccination of children in the town of Karáchí compulsory.

Preamble. WHEREAS it is expedient to prohibit the practice of inoculation, and to make the vaccination of children in the town of Karáchí compulsory; It is enacted as follows:—

PRELIMINARY.

Short title. 1. This Act may be cited as "The Karáchí Vaccination Act, 1879:"

Local extent. It extends only to the town of Karáchí;

Commencement. It shall come into force on such day as the Governor in Council directs by notification in the *Bombay Government Gazette*, and its operation may at any time be suspended by the Governor in Council by notification in the said Gazette.

Interpretation-clause. 2. In this Act, unless there be something repugnant in the subject or context—

"Parent." (1) "parent" includes the father and mother of a legitimate child and the mother of an illegitimate child;

"Guardian." (2) "guardian" means any person to whom the care, nurture or custody of any child falls by law, or by natural right or recognized usage, or who has accepted or assumed the care, nurture or custody of any child, or to whom the care or custody of any child has been entrusted by any authority lawfully authorized in that behalf;

"Public vaccinator." (3) "public vaccinator" means any vaccinator appointed under this Act, or any deputy duly authorized to act for such public vaccinator;

"Medical practitioner" (4) "medical practitioner" means any person duly qualified by a diploma, degree or license to practise in medicine or surgery, or specially licensed by the Governor in Council to practise vaccination and grant certificates under the provisions of this Act;

"Unprotected child" (5) "unprotected child" means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under the provisions of this Act to be insusceptible to vaccination;

"Animal-lymph." (6) "animal-lymph" means vaccine taken from the calf.

ESTABLISHMENT.

Vaccination- 3. For the purposes of this Act the Civil Surgeon of Karáchí, or such

other officer as Government directs, shall divide the town of Karáchí into as many districts for the performance of vaccination as he shall from time to time deem fit. Each such district shall be called a "Vaccination-district." Districts.

The Civil Surgeon or other officer aforesaid shall appoint a public vaccinator for every vaccination-district, and shall appoint such places as he shall from time to time deem fit in each district to be stations for the performance of vaccination. Appointment of public vaccinators.

Such stations shall be called "Public vaccine-stations." Public vaccine-stations.

Every such public vaccinator shall be removable from office by the Civil Surgeon or other officer aforesaid.

The limits of the vaccination-districts made, and the positions of the public vaccine-stations fixed, under the provisions of this section, and the days and hours of the public vaccinator's attendance at each station, shall be published from time to time in such manner as shall be directed in rules to be framed under section 31 of this Act. Notification of districts and stations.

4. Every public vaccinator, unless specially permitted by the Civil Surgeon or other officer aforesaid to reside elsewhere, shall reside within the district for which he is appointed, and shall cause his name, with the addition of the words "Public Vaccinator for the District of ," to be posted up in some conspicuous place on or near the outer door of his dwelling-house and of every public vaccine-station in his district. Public vaccinator to live within his district.

5. No person shall be appointed a public vaccinator, or act as a deputy for a public vaccinator, who shall not possess a certificate of qualification signed by the Civil Surgeon or other officer aforesaid. Qualifications of public vaccinator.

6. A Superintendent of vaccination shall be appointed by Government, who, subject to the orders of the Civil Surgeon or other officer aforesaid, shall have a general control over all the proceedings of public vaccinators, and shall perform such duties, in addition to those prescribed by this Act, as shall be required by Government. Superintendent of vaccination.

The Superintendent shall have, if necessary, one or more assistants as Government may from time to time direct. Assistant Superintendents.

Vaccination.

7. The parent or guardian of every child born in the town of Karáchí shall, within six months after the birth of such child, and Parent or guardian of children born,

the parent or guardian of every unprotected child under the age of fourteen years brought to reside, whether temporarily or permanently, in the town of Karáchi, shall, within three months after such child's arrival in the town, or if the child be at the time of its arrival less than three months old, within six months after its birth; and and of unprotected children brought to reside, in Karáchí,

or living in Karáchí, at date of Act coming into force,

the parent or guardian of every unprotected child living in the town of Karáchí at the date of this Act coming into force and whose age at such date exceeds six months, but does not exceed fourteen years, shall, within six months from the said date,

must procure their vaccination.

take it, or cause it to be taken, to a public vaccinator to be vaccinated, or shall, within such period as aforesaid, cause it to be vaccinated by some medical practitioner;

Public vaccinator bound to vaccinate all children brought to him.

and the public vaccinator to whom such child, or to whom any child under the age of fourteen years, is brought for vaccination, is hereby required, with all reasonable despatch, subject to the conditions hereinafter mentioned, to vaccinate such child.

Inspection.

8. At an appointed hour upon the same day in the following week after vaccination shall have been performed by a public vaccinator or a medical practitioner, or on an earlier day, if the public vaccinator or medical practitioner so desires, the parent or guardian shall again take the child, or cause it to be taken, to the public vaccinator or to the medical practitioner by whom the operation was performed, that he may inspect it and ascertain the result of the operation.

Re-vaccination.

In the event of the vaccination being unsuccessful, such parent or guardian shall, if the public vaccinator or medical practitioner so direct, cause the child to be forthwith again vaccinated and subsequently inspected as on the previous occasion.

If child unfit for vaccination, certificate in form A to be given.

9. If any public vaccinator or medical practitioner shall be of opinion that any child is not in a fit state to be vaccinated, he shall forthwith deliver to the parent or guardian of such child a certificate under his hand, according to the form of schedule A hereto annexed, or to the like effect, that the child is then in a state unfit for vaccination.

Certificate to remain in force for two months, but be renewable.

The said certificate shall remain in force for two months only, but shall be renewable for successive periods of two months until a public vaccinator or medical practitioner shall deem the child to be in a fit state for vaccination, when the child shall, with all reasonable despatch, be vaccinated and a certificate of successful vaccination given in the form of schedule C hereto annexed, according to the provisions of section 11 of this Act, if warranted by the result.

When successive postponement certificates to be granted.

At or before the end of each successive period, the parent or guardian shall take, or cause the child to be taken, to some public vaccinator or medical practitioner, who shall then examine the child and give a fresh certificate according to the said form A, so long as he deems requisite under the circumstances of the case.

Provision for giving

10. If any public vaccinator or medical practitioner shall find that a child whom he has three times unsuccessfully vaccinated is insusceptible of success-

ful vaccination, or that a child brought to him for vaccination has already had the small-pox, he shall deliver to the parent or guardian of such child a certificate under his hand, according to the form of schedule B hereto annexed, or to the like effect, and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated. certificates of insusceptibility to successful vaccination.

11. Every public vaccinator or medical practitioner who shall have performed the operation of vaccination upon any child, and shall have ascertained that the same has been successful, shall deliver to the parent or guardian of such child a certificate, according to the form of schedule C hereto annexed, or to the like effect, certifying that the said child has been successfully vaccinated. Provision for giving certificates of successful vaccination.

12. Except as is hereinafter otherwise provided, the vaccination of a child under the provisions of this Act must, if the parent or guardian of the child so require, be performed with animal-lymph; Vaccination must ordinarily be performed with animal-lymph.

but it shall at any time be lawful for the Governor in Council, on its being shown to his satisfaction that animal-lymph is not procurable, to direct, by notification in the *Bombay Government Gazette*—

(*a*) that, during such period as he may deem fit to appoint, the vaccination of children may, without the assent of the parents or guardians of such children, be performed with lymph taken from a human being; and

(*b*) that the public vaccinator or medical practitioner to whom at any time during the said period a vaccinated child is brought under the provisions of section 8 of this Act for inspection, may, if he see fit, take from such child lymph for the performance of other vaccinations.

13. No fee or remuneration shall be charged by any public vaccinator to the parent or guardian of any child for any such certificate as aforesaid, nor for any vaccination done by him in pursuance of this Act at a public vaccine-station: No fee for vaccination or for certificates.

But it shall be lawful for a public vaccinator to accept a fee for vaccinating a child, by request of the parent or guardian, elsewhere than at a public vaccine-station. Proviso.

REGISTRATION.

14. On the registration of the birth of any child under the provisions of the bye-laws of the Karáchí municipality, or of any other law for the time being in force, the Registrar shall deliver to the person giving information of such birth a printed notice in the form of schedule D hereto annexed, or to the like effect, and such notice shall have attached thereto the several forms of certificates prescribed by this Act. Registrar of births to give notice of requirement of vaccination.

15. Every public vaccinator or medical practitioner who gives to any parent or guardian a certificate in any of the forms of schedules A, B and C, Duplicates of certificates to

be transmitted to Registrar.

hereto annexed, shall, within twenty-one days after giving the same, transmit a duplicate thereof to the Registrar of births of the district where the birth of the child on whose account such certificate was given has been registered, or if that be not known to him, or if the child was born out of the town of Karáchí, or his birth has not been registered in the said city, to the Registrar of the district within which the child was vaccinated, or presented for accination.

Registrar to keep vaccination-notice and certificate-book;

16. The Registrar of births shall keep a book, in such form as may from time to time be prescribed by the Civil Surgeon or other officer under section 29 of this Act, in which he shall enter minutes of the notices of vaccination given by him as herein required, and shall also register the duplicates of certificates transmitted to him as herein provided.

also duplicate register of births, with entries concerning vaccination;

17. He shall also prepare and keep a duplicate of the register of births required to be kept by him under the provisions of the bye-laws of the Karáchí municipality or of any other law for the time being in force, with such additional columns as shall from time to time be prescribed by the Civil Surgeon or other officer under section 29 of this Act, in which he shall record the date of every duplicate certificate in the form of schedule B or schedule C hereto annexed, received by him concerning any child whose birth he has registered, and make an entry to the effect that the child has been vaccinated, or is insusceptible of vaccination, as the case may be.

and also register of postponed vaccinations.

18. He shall also keep a register of postponed vaccinations in the form of schedule E hereto annexed, in which he shall record the name of every child concerning whom he receives a duplicate certificate in the form of schedule A hereto annexed, together with the date of such duplicate certificate and of each such successive duplicate certificate, if he receives more than one, and shall show the number and year of the entry, if any, in the register of births in which such child's birth has been registered.

Transmission of returns to Superintendent.

19. Every Registrar shall transmit on the first of every month to the Superintendent of Vaccination a return, in such form as may from time to time be prescribed by the Civil Surgeon or other officer under section 29 of this Act, of all cases in which duplicate certificates have not been duly received by him in pursuance of the provisions of this Act during the last preceding month.

Prosecutions and Offences.

Penalty for inoculating,

20. Whoever produces, or attempts to produce, in any person by inoculation with variolous matter or by wilful exposure to variolous matter, or to anything impregnated therewith, or who wilfully by any other means produces the disease of small-pox in any person;

and whoever, having been inoculated with small-pox in a place to which this Act does not extend, shall afterwards enter the town of Karáchí before the expiration of forty days from the date of such inoculation, or without a certificate from a medical practitioner that such person is no longer likely to cause contagion ; and for entering town of Karáchí after inoculation.

and whoever, having the charge, custody or control of any person so inoculated, shall within such period, or without such certificate, as aforesaid, knowingly bring such person into, or permit such person to enter, the town of Karáchí,

shall be punished with imprisonment of either description, within the meaning of the Indian Penal Code, for a term which may extend to three months, or to fine which may extend to two hundred rupees, or with both.

Magistrate may make order for vaccination of unprotected child under 14 years.

21. If the Superintendent of vaccination shall give information in writing to a Magistrate that he has reason to believe that any child within the town of Karáchí, under the age of fourteen years, is an unprotected child, and that he has given notice to the parent or guardian of such child to procure its being vaccinated, and that the said notice has been disregarded, such Magistrate may summon such parent or guardian to appear with the child before him, and if the Magistrate shall find, after such examination as he shall deem necessary, that the child is an unprotected child, he may make an order directing such child to be vaccinated within a certain time.

Penalty for disobedience of order.

If, at the expiration of such time, the child shall not have been vaccinated, or shall not be shown to be then unfit to be vaccinated, or to be insusceptible of vaccination, the person upon whom such order shall have been made shall, unless he can show some reasonable ground for his omission to carry the order into effect, be punished with fine which may extend to fifty rupees :

Proviso for costs to person improperly summoned.

Provided that if the Magistrate shall be of opinion that the person is improperly brought before him, and shall refuse to make an order for the vaccination of the child, he may order the informant to pay to such person such sum of money as he shall consider a fair compensation for his expenses and loss of time in attending before the Magistrate.

Penalty for not producing child.

22. If any parent or guardian intentionally omits to produce a child whom he has been summoned to produce under the last preceding section, he shall be punished with simple imprisonment, within the meaning of the Indian Penal Code, for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for neglect to take child to be vaccinated, &c.

23. Whoever, in contravention of this Act,

(*a*) neglects, without reasonable excuse, to take, or cause a child to be taken, to be vaccinated, or after vaccination to be inspected ; or

(*b*) at any time during the period for which any notification made under section 12 of this Act is in force, prevents any public vaccinator from taking lymph from any child whom he has vaccinated; or

(*c*) neglects to fill up and sign and give to the parent or guardian of any child any certificate which such parent or guardian is entitled to receive from him, or to transmit a duplicate of the same to the Registrar of births,

shall be punished for each such offence with fine which may extend to fifty rupees.

Penalty for making or signing false certificate.

24. Whoever wilfully signs or makes, or procures the signing or making of, a false certificate, or duplicate certificate, under this Act, shall be punished with imprisonment of either description, within the meaning of the Indian Penal Code, for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Penalty for accepting illegal fee or remuneration.

25. If any public vaccinator accepts or obtains, or agrees to accept or attempts to obtain, from any person any fee or remuneration, contrary to the provisions of section 13 of this Act, he shall be deemed to have committed an offence punishable under section 161 of the Indian Penal Code.

Cognizance of offences.

26. All offences under this Act shall be cognizable by a Magistrate of the first class, subject to the provisions of any law for the time being in force for the trial of offences, but no complaint of any such offence shall be entertained unless the prosecution be instituted by order of, or under authority from, Government or the Superintendent of vaccination.

Prosecution for neglect.

27. In any prosecution for neglect to procure the vaccination of a child, it shall not be necessary in support thereof to prove that the defendant had received notice from the Registrar or any other officer, of the requirements of the law in this respect; but if the defendant produce any such certificate as hereinbefore described, or the duplicate of the register of births or the register of postponed vaccinations kept by the Registrar as hereinbefore provided, in which such certificate shall be duly entered, the same shall be a sufficient defence for him, except, in regard to the certificate according to the form of schedule A, when the time specified therein for the postponement of the vaccination shall have expired before the time when the information shall have been laid.

Recovery of fine.

28. The provisions of sections 64 to 70, both inclusive, of the Indian Penal Code shall apply to all fines imposed under this Act.

Miscellaneous.

Books and forms.

29. The Civil Surgeon of Karáchí, or such other officer as Government directs, shall frame and provide appropriate books and forms for the use of

the public vaccinators, and also such forms as shall be required for the signature of medical practitioners under the provisions of this Act, and he shall also transmit to the Registrars such books and forms as are required by them under the provisions of this Act.

Annual return of number of children vaccinated, &c.

30. It shall be the duty of the Registrar appointed under the bye-laws of the Karáchí municipality to show in any annual general abstract of births and deaths prepared by him the number of children successfully vaccinated, the number whose vaccination has been postponed, and the number certified to be insusceptible to successful vaccination during the year.

Civil Surgeon of Karáchí to make rules.

31. The Civil Surgeon of Karáchí, or such other officer as Government directs, may, with the sanction of the Governor in Council, from time to time make rules or issue orders consistent with this Act—

(*a*) providing for the appointment of deputies of public vaccinators, when necessary;

(*b*) determining the qualifications to be required of public vaccinators or their deputies, and regulating the grant of certificates of qualification under section 5;

(*c*) for the guidance of public vaccinators and others in all other matters connected with the working of this Act.

All such rules or orders shall be published in the *Bombay Government Gazette*.

SCHEDULE A.

(*See section 9*).

I, the undersigned, hereby certify that, in my opinion , the child of , resident at , in Karáchí, is not now in a fit and proper state to be vaccinated, and I do hereby postpone the vaccination for the period of two months from this date.

Dated this day of 18

(*Signature of Medical Practitioner or Public Vaccinator*).

SCHEDULE B.

(*See section 10*).

I, the undersigned, hereby certify that I have three times unsuccessfully vaccinated , the child of , residing at in Karáchí (*or* that the child has already had small-pox, *as the case may be*),

and I am of opinion that the said child is insusceptible of successful vaccination.

Dated this day of 18 .

(*Signature of Medical Practitioner or Public Vaccinator*).

SCHEDULE C.

(*See section 11*).

I, the undersigned, hereby certify that the child of , age , resident at , in Karáchí, has been successfully vaccinated by me.

Dated this day of 18 .

(*Signature of Medical Practitioner or Public Vaccinator*).

SCHEDULE D.

(*See section 14*).

To

(*Here insert the name of the parent, guardian or other person who gives information of the child's birth*).

Take notice that the child of (*here enter the mother's name*) whose birth has this day been registered, must be vaccinated under the provisions of the Karáchí Vaccination Act, 187 , within six months from the date of its birth, under a penalty of ten rupees.

The public vaccine-station nearest to the house in which the child was born is at No. . The days and hours for vaccination at that station are as follows :—

(*Here insert the days and the hours when the public vaccinator is in attendance*).

On your taking, or causing the child to be taken, to the public vaccinator at the said station, within the said hours on any of the said days, or at any other public vaccine-station in the city on the days and within the hours prescribed for public vaccination at such station, it will be vaccinated free of charge.

You should be careful to have one of the annexed forms of certificates filled in by the public vaccinator, or if you employ a private medical practitioner to vaccinate the child, by such medical practitioner, and to keep the same in your

possession. Any such certificate will be granted to you by a public vaccinator free of charge.

Dated the of 187

Registrar of Births.

SCHEDULE E.

(*See section 18.*)

Register of postponed Vaccinations for the District of in Karáchf.

Consecutive Number.	Name of Child.	Birth.		Date of Certificate of Postponement.		Signature of Registrar.
		Year.	No. of Entry in Register.		1868	
1	Venayek Pandurang...	1868	12	May	10	H. O.

THE BOMBAY LAND-REVENUE CODE, 1879.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title.
   Local extent.
   Commencement.
2. Enactments repealed.
3. Interpretation-clause.
   „ "Revenue-officer."
   „ "Survey-officer."
   „ "Collector."
   „ "Land."
   „ "Estate."
   „ "Survey-number."
   „ "Recognized share of a survey-number."
   „ "Building-site."
   „ "Boundary-mark."
   „ "To hold land."
   „ "Holder."
   „ "Landholder."
   „ "Holding."

SECTIONS

" "Superior holder"
" "Inferior holder"
" "Tenant."
" "Landlord"
" "Occupant."
" "Registered occupant"
" "Occupancy"
" "Alienated"
" "Village, town or city"
" "Revenue year."
" "Year"
" "Section"
" "This chapter"

CHAPTER II.

CONSTITUTION AND POWERS OF REVENUE-OFFICERS.

4 Chief controlling authority in revenue-matters
Extent of territories under Commissioners.
Division
Present divisions
5 Appointments and duties of Commissioners
6 Assistants to Commissioners
7. Division to be divided into districts.
District taluqa
Present zilas and taluqas.
8. Collector of district.
9 Assistant and Deputy Collectors
To be subordinate to Collector.
10 Their duties and powers
11 Collector of district in case of temporary vacancy
12 Mamlatdár.
His appointment
His duties and powers
13. Mahalkari
His duties and powers.
14 Mámlatdár or Mahálkari may depute subordinates to perform certain of his duties
Mahál
15 Mámlatdár or Mahálkari in case of temporary vacancy.
16 Stipendiary patel and village-accountant where to be appointed.
Saving of rights of holders of alienated villages
17 Village-accountant to keep records prescribed by Collector.
And to prepare public writings.
18. Survey-officers
Their duties and powers.
19 Combination of offices.
20 Appointments to be notified
Acting appointments

SECTIONS.

21. Establishments.
22. Seals.

CHAPTER III.

OF THE SECURITY TO BE FURNISHED BY CERTAIN REVENUE-OFFICERS AND THE LIABILITY OF PRINCIPALS AND SURETIES.

23. Government to direct what officers shall furnish security, and to what amount.
24. Fresh or additional security.
25. Demands for money, papers, &c., to be made known in writing to person concerned.
Who may be arrested and confined in jail if he fail to produce them.
Limit to confinement.
26. Public moneys may also be recovered as arrears of revenue;
and search-warrant issued for recovery of papers or property.
Persons in possession of public moneys, &c., bound to give them up.
27. Surety liable in same manner as principal.
Extent of liability.
Sureties not liable to imprisonment, if penalty paid.
28. Officer or surety in jail may, by furnishing security, obtain release.
29. Liability of surety not affected by death of principal or his taking different appointment.
Liability of heirs of deceased officer.
30. How surety may withdraw from further liability.

CHAPTER IV.

OF CERTAIN ACTS PROHIBITED TO REVENUE-OFFICERS, AND OF THEIR PUNISHMENT FOR MISCONDUCT.

31. Revenue-officers without permission,
not to trade;
not to purchase at public sale;
not to be concerned in revenue;
not to make private use of public money or property;
not to make or receive undue exactions or presents.
32. Power of fining, reducing, suspending and dismissing in whom to vest.
Officer to be fined, &c., only by order of Government.
33. Orders to be made in writing.
34. Fine not to exceed two months' pay.
How recovered.
35. Appeals.
36. Liability to criminal prosecution not affected.
Officer may be suspended during trial and subsequently suspended, reduced or dismissed.

CHAPTER V

OF LAND AND LAND-REVENUE.

Land.

SECTIONS

37 Public roads, &c., and lands not property of others, belong to Government.

38. Lands may be assigned for special purposes, and, when assigned, not to be otherwise appropriated without sanction.

39. Regulation of use of pasturage.

Trees.

40. Concession of Government-rights to trees in case of settlements completed prior to Act
Concession in case of settlements completed after passing of Act
Concession in case of land taken up after completion of settlement.

41 Government-trees and forests.

42 Road-side trees

43 Recovery of value of trees, &c., unauthorizedly appropriated

44 Regulation of supply of firewood and timber for domestic or other purposes

Land-revenue.

45 All land liable to pay revenue unless specially exempted.
Saving of right to levy revenue.

46. Liability of alluvial lands to land-revenue.

47 Right to remission in cases of diluvion
"Holding" defined

48. Lands chargeable with land-revenue
Assessment valuable if purpose for which land is held is changed.
Land held rent-free for one purpose assessable if used for another.
Appropriation of land to certain purposes may be prohibited.

49. Land indirectly taxed to State, or land liable to occasional assessment, liable to commuted assessment.

50 Superior holder may recover commuted assessment from inferior holder

51. Excess of assessment may be laid on land inadequately assessed held with it

52 Assessment by whom to be fixed
Proviso

53 Register of alienated lands.

54 Settlement of assessment with whom to be made
When to be made with under-holder.

55. Rates for use of water

56 Land revenue a paramount charge on land.

57 Forfeited holding may be taken possession of and otherwise disposed of.

58. Receipts to be granted by revenue-officers
And by superior holders

59 Penalty for failure to grant receipts.

CHAPTER VI.

OF THE OCCUPATION OF UNALIENATED LAND AND THE RIGHTS OF OCCUPANTS.

Occupation.

SECTIONS.

60. Permission required previous to taking up unoccupied land.
61. Penalties for unauthorized occupation of land.
62. Occupancy-right to be paid for and liable to conditions.
Price to include price of trees.
63. Occupancy of alluvial land which vests in Government.
64. Temporary right to alluvial lands of small extent.
"Holding" defined.

Occupants' Rights.

65. Uses to which occupant of land for purposes of agriculture may put his land.
Procedure if occupant wishes to apply land to other purpose.
Power to require fine in addition to special assessment.
66. Penalty for so appropriating land without permission.
Co-occupant or tenant responsible to registered occupant in damages.
67. Permission may be granted on terms.
68. Occupants' rights conditional.
69. Reservation of Government-right to mines.
Proviso.
70. Decree or order of competent court to be given effect to.
71. Name of heir to be registered when registered occupant dies.
When entry to be amended.
72. Intestate occupancy or holding to be sold.
73. Right of occupancy to be transferable and heritable.

Relinquishment of Occupancy.

74. Occupant may relinquish occupancy.
75. Relinquishment of lands paying lump-assessment.
76. Application of sections 74, 75.
Relinquishment of land described in paragraph 1 of section 49.
Relinquishment of land described in section 51.
77. Right of way to relinquished land.
78. Sections 75 and 76 not to affect—
responsibility of share in certain village;
validity of lease from Government.
79. Occupant to continue liable for demands until occupancy relinquished.

Remedies against Forfeiture of Occupancies.

80. Right of person other than occupant to pay land-revenue to prevent forfeiture.
Collector may assist such persons in recovering the revenue from other parties liable therefor.
Proviso.
81. When Collector may make co-occupant the registered occupant, instead of selling occupancy to realize land-revenue.

Suspension of certain Provisions of this Chapter.

SECTIONS
82 Power to suspend operation of section 60 or 74

CHAPTER VII

OF SUPERIOR AND INFERIOR HOLDERS

Tenants' Rights.

83 Amount of rent payable by tenant
Duration of tenancy
Presumption as to tenure
Saving clause
84 Termination of annual tenancy
Notice of termination of tenancy to be given by landlord to tenant, or *vice versâ*
85 Superior holders' dues by whom to be collected.

Recovery of superior Holders' Dues

86 Superior holders entitled to assistance in recovery of dues from inferior holders, &c
Application for assistance when to be made
87 Collector how to proceed on such application
Assistance may be refused or granted in part
Civil suit not barred

Grant of special Powers to Holders of alienated Lands.

88 Governor in Council may, by commission, confer on holders of alienated lands power—
to demand security for land-revenue,
to attach defaultor's property,
to fix time at, and instalments in, which revenue due shall be paid,
to exercise Collector's powers,
to receive notices of relinquishment,
to arrange for repair of boundary-marks.
Proviso
89 Form of such commission
90 Reference to be made by holder of commission to Collector
91 When compulsory process shall cease
Penalty for continuing compulsory process
92 Arrears to which power under commission to extend.
93 Holder of commission not to enforce unusual or excessive demand.
Penalty for so doing
94 Holder of commission may establish right to enhanced rent in civil Court

CHAPTER VIII.

Of Survey-settlements and the Partition of Estates.

Sections.

95. Power to introduce revenue-survey into any part of Presidency.
Control of revenue-survey.
96. Survey-officer may require, by general notice or by summons, suitable service from holders of land, &c.
97. Assistance to be given by holders and others in measurement or classification of lands.
98. Survey-numbers not to be of less extent than minimum fixed.
Exception.
99. Provisions applicable to recognized shares of survey-numbers.
100. Officer in charge of survey to fix assessments.
Regard to be had to proviso to section 52.
Proviso.
101. Assessment may be on land, or on means of irrigation, &c.
102. Assessments not leviable without sanction of Government.
But may be fixed with or without modification, for term of years.
103. Introduction of survey-settlement how made.
104. Excess-assessment not to be levied in year in which survey-settlement is introduced.
Nor in following year if number resigned that year.
105. Fixing of assessment under section 102 limited to ordinary land-revenue.
106. Government may direct fresh survey and revision of assessment.
Improvements made from private resources not to be assessed.
107. Improvements which may be considered in fixing revised assessment.
108. Preparation of statistical and fiscal records.
109. Officers to correct clerical and admitted errors in settlement-register, and inquire into and pass orders on applications for mutation of names.
110. Collector to keep survey-records and frame village-records in accordance therewith;
and to register changes, &c.
111. Revenue-management of villages or estates not belonging to Government that may be temporarily under Government-management.
112. Maintenance of existing settlements of land-revenue.

Partition.

113. Partition of estate paying revenue to Government.
114. Partition of certain estates by Collector on application by co-sharers.
115. Sub-division of numbers at time of revision of survey.
116. Separate demarcation of land appropriated under section 65 or 67.
117. Bombay Act V of 1862 not affected.

CHAPTER IX.

The Settlement of Boundaries and the Construction and Maintenance of Boundary-marks.

118. Determination of village-boundaries.

SECTIONS.

Village-boundaries may be settled by agreement.
Procedure in case of disagreement or dispute.
119. Determination of field-boundaries.
120. Settlement of boundary-disputes by arbitration.
When award may be remitted for re-consideration.
If arbitration fail, survey-officer to settle dispute.
121. Effect of settlement of boundary.

Boundary-marks.

122. Construction and repair of boundary-marks of villages and survey-numbers.
Requisition on landholders to erect or repair boundary-marks.
General notification to be sufficient notice of requisition.
Description of boundary-marks.
123. Responsibility for maintenance of boundary-marks.
124. Collector to have charge of boundary-marks after introduction of survey-settlement.
125. Penalty for injuring boundary-marks.

CHAPTER X.

OF LANDS WITHIN THE SITES OF VILLAGES, TOWNS AND CITIES.

Fixing of Sites.

126. Limits of sites of villages, towns and cities how fixed.

Exemption from Land-revenue.

127. Act XI of 1852 and Bombay Acts II and VII of 1863 how far applicable to lands in such sites.
128. Existing exemption when continued in case of certain lands.
129. Right to exemption determined by Collector.
130. Occupancy-price payable in addition to assessment, in certain cases.

Miscellaneous.

131. Survey of lands in such sites how conducted.
Proviso.
132. In certain cases survey-fee to be charged.
133. Sanad to be granted without extra charge.
Proviso.
134. Assessment of lands hitherto used for purpose of agriculture only appropriated to other purposes.
135. Limitation of certain suits.

CHAPTER XI.

OF THE REALIZATION OF THE LAND-REVENUE AND OTHER REVENUE-DEMANDS.

Responsibility for Land-revenue.

136. Primary responsibility.

SECTIONS.

Recovery of land-revenue if person primarily responsible fails to pay it.
Credit allowed to inferior holder for recoveries made from him.

Priority of Government Claim for Land-revenue.

137. Claims of Government to have precedence over all others.
138. Liability of crop for revenue of land.

Land-revenue when leviable.

139. Land-revenue may be levied at any time during revenue-year.

Precautionary Measures for the Security of the Land-revenue.

140. Removal of crop which has been sold, &c., may be prevented until revenue paid.
141. To secure land-revenue Collector may—
prevent reaping of crop, or
removal thereof, or
place watchmen over it.
142. Collector's orders under last section how made known.
Penalty for disobedience of order.
143. Reaping, &c., not to be unduly deferred.
Crop when to be released.
144. Temporary attachment and management of village or share of village.
Powers of manager, and disposal of surplus profits.
145. Precautionary measures to be relinquished on security being furnished.

Regulation of Payment of Land-revenue.

146. Government to determine dates, &c., on which land-revenue shall be payable.

Defaulters.

147. Arrear.
Defaulters.
148. Liabilities incurred by default.
149. Certified account to be evidence as to arrears.
Collectors may realize each other's demands.

Recovery of Arrears.

150. Process for recovery of arrears.
151. Revenue-demands of former years how recoverable.
Proviso.

Notice of Demand.

152. When notice of demand may issue.

Forfeiture of Occupancy or alienated Holding.

153. Occupancy or alienated holding for which arrear is due may be forfeited.

Sale of Defaulter's Property.

154. Distraint and sale of defaulter's moveable property.
By whom to be made.

SECTIONS.

155. Sale of defaulter's immoveable property.
156. Exemption from distraint and sale.

Arrest and Imprisonment.

157. Arrest and detention of defaulter.
Imprisonment in civil jail.
Limit to detention of defaulters.
158. Power to declare by whom power of arrest to be exercised.

Attachment of Villages.

159. Power to attach defaulter's village, and take it under management.
160. Lands of such village to revert free of incumbrances.
Powers of manager.
161. Application of surplus-profits.
162. Restoration of village so attached.
Disposal of surplus-receipts.
163. Village, &c., to vest in Government, if not redeemed within twelve years

Stay of Proceedings.

164. Processes to be stayed on security being given.
Or on amount demanded being paid under protest.

Procedure in respect of Sales.

165. Procedure in effecting sales.
Proclamation of sales.
166. Notification of sales.
167. Sale by whom to be made.
Time when sale may be made.
Postponement of sale.
168. Sale of perishable articles.
169. When sale may be stayed.
170. Sales of moveable property when liable to confirmation.
171. Mode of payment for moveable property when sale is concluded at once.
172. Payment when sale is subject to confirmation.
173. Deposit by purchaser in case of sale of immoveable property.
174. Purchase-money when to be paid.
175. Effect of default.
176. Liability of purchaser for loss by re-sale.
177. Notification before re-sale.
178. Application to set aside sale.
179. Order confirming or setting aside sale.
180. Refund of deposit or purchase-money when sale set aside.
181. On confirmation of sale, purchaser to be put in possession.
Certificate of purchase.
182. Bar of suit against certified purchaser.
183. Application of proceeds of sale.
Expenses of sale how calculated.
184. Payment of surplus to creditors.

SECTIONS.
185. Liability of purchaser for revenue.
186. Claims to attached moveable property how disposed of.

Application of the Provisions of this Chapter.

187. What moneys leviable under provisions of chapter.
Sureties liable as revenue-defaulters.
On resumption of farm, no payments to contractor in advance admitted.

CHAPTER XII.

PROCEDURE OF REVENUE-OFFICERS.

188. Subordination of revenue-officers.
189. Power to summon persons to give evidence and produce documents.
190. Summons to be in writing signed and sealed.
How to be served.
Service in district other than that of issuer.
191. Mode of serving notices.
Notice not void for error.
192. Procedure for procuring attendance of witnesses.

Formal Inquiry.

193. Mode of taking evidence in formal inquiries.
Taking evidence given in English.
Translation to be on record.
194. Writing and explanation of decisions.

Summary Inquiry.

195. Summary inquiries how conducted.
196. Formal and summary inquiries to be deemed judicial proceedings.
Hearing and decision.
Notice to parties.
197. Ordinary inquiries how conducted.
198. Copies and translations, &c., how obtained.
199. Arrest of defaulter to be made upon warrant.
200. Power of revenue-officer to enter upon lands or premises for purposes of measurement, &c.
Proviso.
201. Power to determine language of district.
202. Mode of evicting person wrongfully in possession of land.

CHAPTER XIII.

APPEALS AND REVISION.

203. Appeal from order passed by revenue-officer to his superior.
204. Appeal to Governor in Council.
205. Limitation of appeals.
206. Admission of appeal after period of limitation.

SECTIONS.

207. Provision where last day for appeal falls on Sunday or holiday.
208. What to accompany petition of appeal
209 Powers of appellate authority
210. Power to suspend execution of order of subordinate officer
211 Power to call for and examine records and proceedings of subordinate officers
And to pass orders thereupon.
212. Explanation as to decisions or orders expressly made final.

CHAPTER XIV.

MISCELLANEOUS.

213. Maps, land-registers and village-accounts, &c, open to inspection.
Extracts and copies to be given.
214 Power to frame rules.
215 Rules to be published.
Power to provide for penalties.
216 Chapters VIII to X how far applicable to alienated villages
217 Occupants in alienated villages.
218 Construction of Act

ACT No. V OF 1879.

Received the Governor's assent on the 26th of April, 1879, and the Governor General's assent on the 30th of June, 1879, and published by the Governor on the 17th of July, 1879.

An Act to consolidate and amend the law relating to Revenue-officers and the Land-revenue in the Presidency of Bombay.

Preamble

WHEREAS it is expedient to consolidate and amend the law relating to revenue-officers, and to the assessment and recovery of land-revenue, and to other matters connected with the land-revenue-administration, It is hereby enacted as follows —

CHAPTER I

PRELIMINARY.

Short title

1 This Act may be cited as "The Bombay Land-revenue Code, 1879."

Local extent.

It extends to the whole of the Presidency of Bombay except the Scheduled Districts, as defined by Act XIV of 1874, and the city of Bombay.

Commencement

So much of section 2 as relates to Bombay Act I of 1866 shall come into force from such date as the Governor in Council shall, by notification in the *Bombay Government Gazette*, direct. The rest of this Act shall come into force at once

2. The Regulations and Acts mentioned in the schedule A hereto annexed are repealed to the extent specified in the third column thereof, but not so as to render invalid anything done in accordance with any of them. Enactments repealed.

All references made in any Bombay Regulation or in any Act of the Governor of Bombay in Council, or in any Act of the Governor General in Council passed before the coming into operation of the Indian Councils Act, 1861, to any enactment hereby repealed, shall be read as if made to the corresponding portion of this Act.

And all rules prescribed, appointments made, securities furnished, powers conferred, orders issued and notifications published under any such enactment, and all other rules (if any) now in force and relating to any of the matters hereinafter dealt with, shall (so far as they are consistent with this Act) be deemed to have been respectively prescribed, made, furnished, conferred, issued and published hereunder.

And all proceedings now pending, which have been commenced under any enactment hereby repealed, shall be deemed to have been commenced under this Act, and shall hereafter be conducted in accordance with the provisions of this Act.

3. In this Act, unless there be something repugnant in the subject or context— Interpretation-clause.

(1) "revenue-officer" means every officer of any rank whatsoever appointed under any of the provisions of this Act, and employed in or about the business of the land-revenue or of the surveys, assessment, accounts or records connected therewith; "Revenue-officer."

(2) "survey-officer" means an officer appointed under, or in the manner provided by, section 18 of this Act; "Survey-officer."

(3) the word "Collector" means the Collector of the district; "Collector."

(4) "land" includes benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth, and also shares in, or charges on, the revenue or rent of villages, or other defined portions of territory; "Land."

(5) "estate" means any interest in lands and the aggregate of such interests vested in a person or aggregate of persons capable of holding the same; "Estate."

(6) "survey-number" means a portion of land of which the area and other particulars are separately entered, under an indicative number in the survey-records of the village, town or city in which it is situated, and includes a recognized share of a survey-number; "Survey-number."

(7) "recognized share of a survey-number" means a sub-division of a survey-number separately assessed and registered; "Recognized share of a survey-number."

"Building-site." (8) "building-site" means a portion of land held for building purposes, whether any building be actually erected thereupon or not, and includes the open ground or court-yard enclosed by, or adjacent to, any building erected thereupon;

"Boundary-mark" (9) "boundary-mark" means any erection, whether of earth, stone or other material, and also any hedge, vacant strip of ground, or other object, whether natural or artificial, set up, employed or specified by a survey-officer, or other revenue-officer having authority in that behalf, in order to designate the boundary of any division of land;

"To hold land" (10) "to hold land" means to be legally invested with a right to the possession and enjoyment or disposal of such land, either immediate or at the termination of tenancies legally subsisting;

"Holder." "Landholder." (11) "holder" or "landholder" signifies the person in whom a right to hold land is vested, whether solely on his own account, or wholly or partly in trust for another person, or for a class of persons, or for the public. It includes a mortgagee vested with a right to possession;

"Holding." (12) "holding" signifies land over which such right extends;

"Superior holder." (13) "superior holder" signifies a holder entitled to receive from other holders rent or land-revenue on account of lands held by them, whether he be accountable or not for the same, or any part thereof, to the Government;

"Inferior holder." (14) "inferior holder" signifies a holder liable to pay the rent or land-revenue to a superior holder, whether on account of such superior holder or Government;

"Tenant." "Landlord." (15) "tenant" signifies a person who holds by a right derived from a superior holder called his "landlord," or from his landlord's predecessor in title;

"Occupant." (16) "occupant" signifies a holder of unalienated land, or where there are more holders than one, the holder having the highest right in respect of any such land,

or where such highest right vests equally in more holders than one, any one of such holders;

"Registered occupant." (17) "registered occupant" signifies a sole occupant or the eldest or principal of several joint occupants whose name is authorizedly entered in the Government-records as holding unalienated land whether in person or by his co-occupant, tenant, agent, servant or other legal representative;

"Occupancy." (18) "occupancy" signifies the sum of the rights vested in an occupant as such;

"Alienated." (19) "alienated" means transferred in so far as the rights of Government to payment of the rent or land-revenue are concerned, wholly or partially, to the ownership of any person,

(20) the words "village, town or city" include all lands belonging to any village, town or city; "Village, town or city."

(21) the words "revenue-year" or "year" means[a] the period from, and exclusive of, the thirty-first July of one calendar year until, and inclusive of, the thirty-first July in the next calendar year; "Revenue-year." "Year."

(22) "section" means a section of this Act; "Section."

(23) the words "this chapter" mean the chapter of this Act in which those words occur. "This chapter."

CHAPTER II.

CONSTITUTION AND POWERS OF REVENUE-OFFICERS.

4. The chief controlling authority in all matters connected with the land-revenue is vested in the Commissioner, subject to the Governor in Council. Chief controlling authority in revenue-matters.

There shall be one or more Commissioners as the Governor in Council, subject to the orders of the Government of India, may direct; and the Governor in Council shall prescribe what territories are to be under the control of each, whether generally or for any specific purpose, and may from time to time alter the limits of such territories, all orders made on this behalf being duly notified. Extent of territories under Commissioners.

The territories under each Commissioner shall form, and be called, a division. Division.

The present divisions shall continue as they are for the purposes of this Act, until altered by the Governor in Council. Present divisions.

5. The Commissioners shall be appointed by the Governor in Council, and shall exercise the powers and discharge the duties conferred and imposed on a Commissioner under this Act, or under any other law for the time being in force, and so far as is consistent therewith all such other powers or duties of appeal, superintendence and control within their respective divisions, and over the officers subordinate to them as may from time to time be prescribed by Government. Appointments and duties of Commissioners.

6. Each Commissioner shall have such number of assistants as the Governor in Council may from time to time sanction, their appointment being made by the Governor in Council. Assistants so appointed shall perform such duties as the Commissioners to whom they are respectively subordinate may from time to time direct. Assistants to Commissioners.

7. Each division, under the control of the Commissioner, shall be divided into such number of districts with such limits as may from time to time be prescribed by a duly published order of the Governor in Council. Division to be divided into districts.

[a] *See*

District, taluqa.

And each such district shall consist of such number of taluqas, and each taluqa shall consist of such number of mahâls and villages, as may from time to time be prescribed in a duly published order of the Governor in Council.

Present zilas and taluqas.

The present zilas or collectorates shall form districts, and the present taluqas shall remain as they are, for the purposes of this Act, until altered by the Governor in Council.

Collector of district.

8. The Governor in Council shall appoint in each district an officer who shall be the Collector of the district, and who shall be subordinate to the Commissioner of his division and may exercise, throughout his district, all the powers, and discharge all the duties, conferred and imposed on a Collector or an Assistant or Deputy Collector by this Act, or any other law for the time being in force, and in all matters not specially provided for by law shall act according to the instructions of Government.

Assistant and Deputy Collectors.

9. The Governor in Council may appoint to each district so many Assistant Collectors and so many Deputy Collectors as he may deem expedient; the Assistants shall be called "First," "Second," "Supernumerary," &c., as may be expressed in the order of their appointment.

To be subordinate to Collector.

All such Assistant and Deputy Collectors and all other officers employed in the land-revenue-administration of the district shall be subordinate to the Collector.

Their duties and powers.

10. Subject to the general orders of Government, a Collector may place any of his assistants or deputies in charge of the revenue-administration of one or more of the taluqas in his district, or may himself retain charge thereof.

Any Assistant or Deputy Collector thus placed in charge shall, subject to the provisions of chapter XIII of this Act, perform all the duties and exercise all the powers conferred upon a Collector of a district by this Act or any other law at the time being in force, so far as regards the taluqa or taluqas in his charge:

Provided that the Collector may, whenever he may deem fit, direct any such assistant or deputy not to perform certain duties or exercise certain powers, and may reserve the same to himself or assign them to any other assistant or deputy subordinate to him.

To such Assistant or Deputy Collector as it may not be possible or expedient to place in charge of taluqas, the Collector shall, under the general orders of Government, assign such particular duties and powers as he may from time to time see fit.

Collector of district in case of temporary vacancy.

11. If the Collector is disabled from performing his duties, or for any reason vacates his offices or leaves his district, or dies, his assistant of highest rank present in the district shall, unless other provision has been made by Government, succeed temporarily to his office, and shall be held to be the

Collector of the district under this Act until the Collector resumes charge of his district, or until the Governor in Council appoints a successor to the former Collector, and such successor takes charge of his appointment.

An officer whose principal office is different from that of an Assistant Collector, and who is an Assistant Collector for special purposes only, shall not be deemed to be an Assistant for the purposes of this section.

Mámlatdár. His appointment.

12. The chief officer entrusted with the local revenue-administration of a taluqa shall be called a Mámlatdár. He shall be appointed by the Commissioner of the division in which his taluqa is situated.

His duties and powers.

His duties and powers shall be such as may be expressly imposed or conferred upon him by this Act, or by any other law for the time being in force, or as may be imposed upon, or delegated to, him by the Collector under the general or special orders of Government. He shall continue to perform the duties and exercise the powers at present performed and exercised by him after the passing of this Act, until such time as he is otherwise directed by competent authority.

Mahálkari. His duties and powers.

13. Whenever it may appear necessary to the Governor in Council, the Collector may appoint a Mahálkari to be in charge of a defined portion of a taluqa; and subject to the orders of Government and of the Commissioner, the Collector may assign to him within his local limits such of the duties and powers of a Mámlatdár as he may from time to time see fit, and may also from time to time direct whether the Mahálkari's immediate superior shall, for the purposes of section 203 of this Act, be deemed to be the Mámlatdár or the Assistant or Deputy Collector, or the Collector in charge of the taluqa.

Mámlatdár or Mahálkari may depute subordinates to perform certain of his duties.

14. It shall be competent to a Mámlatdár or Mahálkari, subject to such general orders as may from time to time be passed by the Commissioner or by the Collector, to employ any of his subordinates to perform any portion of his ministerial duties: provided that all acts and orders of his subordinates when so employed shall be liable to revision and confirmation by such Mámlatdár or Mahálkari.

Mahál.

The portion of a taluqa in the charge of a Mahálkari shall be called a mahál. The present maháls shall remain as they are, for the purposes of this Act, until altered by the Governor in Council.

Mámlatdár or Mahálkari in case of temporary vacancy.

15. If a Mámlatdár or Mahálkari is disabled from performing his duties, or for any reason vacates his office, or leaves his taluqa or mahál, or dies, such subordinate as may be designated by orders to be issued from time to time on this behalf by the Collector, shall succeed temporarily to the said Mámlatdár's or Mahálkari's office, and shall be held to be the Mámlatdár or Mahálkari under this Act until the Mámlatdár or Mahálkari resumes charge of his taluqa or mahál, or until such time as a successor is duly appointed and takes charge of his appointment.

Stipendiary pátel and village-accountant where to be appointed.

16 In villages where no hereditary pátel or village-accountant exists, it shall be lawful for the Collector under the general orders of Government and of the Commissioner to appoint a stipendiary pátel or a village-accountant who shall perform respectively all the duties of hereditary pátels or village-accountants as hereinafter prescribed in this Act or in any other law for the time being in force, and shall hold their situations under the rules in force with regard to subordinate revenue-officers.

Saving of rights of holders of alienated villages.

Nothing in this section shall be held to affect any subsisting rights of holders of alienated villages or others in respect of the appointment of pátels and village-accountants in any alienated or other villages.

Village-accountant to keep records prescribed by Collector.

17. Subject to the general orders of Government and of the Commissioner, the Collector shall prescribe from time to time what registers, accounts and other records shall be kept by the village-accountant; and pending the first issue of orders under this section, the village-accountant shall continue to keep all such registers, accounts and other records as he may hitherto have been required to keep.

And to prepare public writings.

It shall also be the duty of the village-accountant to prepare, whenever called upon by the pátel of his village, or by any superior revenue or Police-officer of the taluqa or district to do so, all writings connected with the concerns of the village which are required either for the use of Government or the public, such as notices, reports of inquests, and depositions and examinations in criminal matters.

Survey-officers.

18. For the purposes of chapters VIII, IX and X of this Act, the Governor in Council may appoint such officers as may from time to time appear necessary. Such officers shall be designated "Commissioner of Survey," "Superintendent of Survey," "Survey-settlement-officers" and "Assistant," or otherwise as may seem requisite, and shall be subordinated the one to the other in such order as the Governor in Council may direct.

Their duties and powers.

Subject to the orders of the Governor in Council the officers so appointed are vested with the cognizance of all matters connected with survey and settlement, and shall exercise all such powers and perform all such duties as may be prescribed by this or any other law for the time being in force.

Combination of offices.

19. It shall be lawful for the Governor in Council to appoint one and the same person, being otherwise competent according to law, to any two or more of the offices provided for in this chapter, or to confer upon an officer of one denomination all or any of the powers or duties of any other officer or officers within certain local limits or otherwise as may seem expedient.

Appointments to be notified.

20. The appointment of all officers mentioned in sections 4 to 13 and 18 and 19 shall be duly notified.

Acting appointments.

Any officer [appointed to act temporarily for any such officer shall exercise

the same powers and perform the same duties as might be performed or exercised by the officer for whom he is so appointed to act.

Establishments.

21. Subject to rules or orders made under section 214, the appointment of all members of the establishments of the undermentioned officers shall, unless otherwise directed by Government, be made by those officers respectively, namely:—

The Commissioners,
„ Collectors,
„ Commissioner of Survey,
„ Superintendent of Survey,
„ Survey-settlement-officer.

The appointment of all members of the establishments of all other officers mentioned in the foregoing sections of this chapter shall be made in their respective departments by the Collector and the Superintendent of Survey; provided that it shall be lawful for them to delegate such portion of this power as they may deem fit to any subordinate officer, but subject to the retention of a right of revision at any time of the appointments that may be made by such subordinate officers.

Seals.

22. The Governor in Council shall from time to time by notification prescribe what revenue-officers shall use a seal, and what size and description of seal shall be used by each of such officers.

Pending the issue of the first orders under this section, the seals hitherto used shall continue to be used by such officers as have used them.

CHAPTER III.

Of the Security to be furnished by certain Revenue-officers and the Liability of Principals and Sureties.

Government to direct what officers shall furnish security, and to what amount.

23. It shall be lawful for Government to direct that such revenue-officers as it deems fit shall, previously to entering upon their office, furnish security to such amount as Government may in each case deem expedient, either by deposit of Government-paper duly endorsed, accompanied by a power to sell, or in the form contained in schedule B to this Act.

The amount for which such security shall be furnished may be varied, from time to time, by order of Government, which shall also determine the number of sureties to be required when security is taken in the form of schedule B.

Fresh or additional security.

24. The Collector or the Superintendent of Survey may, at any time after security has been given by a revenue-officer subordinate to him, if it appear to him that the security taken is unsatisfactory, or if the officer is transferred to an office for which larger security is required, or for other sufficient reason, demand fresh or additional security, and in case of the officer

failing to give such security within one month after its being required of him may suspend or dismiss him: provided always that no greater security shall be demanded than is required by the orders of Government under the last preceding section.

Demands for money, papers, &c., to be made known in writing to person concerned.

25. The Collector or the Superintendent of Survey or any other officer deputed by the Collector or Superintendent of Survey for this purpose shall in all cases in which he may have a claim on any revenue-officer or on any person formerly employed as such in his department or district for public money or papers or other Government-property, by writing under his official seal, if he use one, and signature, require the money, or the particular papers or property detained to be delivered either immediately to the person bearing the said writing, or to such person on such date and at such place as the writing may specify.

Who may be arrested and confined in jail if he fail to produce them.

If the officer or other person aforesaid shall not discharge the money, or deliver up the papers or property, as directed, he may cause him to be apprehended, and may send him with a warrant, in the form of schedule C, to be confined in the civil jail till he discharges the sums or delivers up the papers or property demanded from him:

Limit to confinement.

Provided that no person shall be detained in confinement by virtue of any such warrant for a longer period than one calendar month.

Public moneys may also be recovered as arrears of revenue;

26. The Collector of his own motion, if the officer or other person is or was serving in his department and district, and upon the application of the Superintendent of Survey, if such officer or person is or was serving in the survey-department in his district, may also take proceedings to recover any public moneys due by him in the same manner and subject to the same rules as are laid down in this Act for the recovery of arrears of land-revenue from defaulters, and for the purpose of recovering public papers or other property appertaining to Government may issue a search-warrant and exercise all such powers with respect thereto as may be lawfully exercised by a Magistrate under the provisions of chapter XXVII of the Criminal Procedure Code (Act X of 1872).

and search-warrant issued for recovery of papers or property.

Persons in possession of public moneys, &c., bound to give them up.

It shall be the duty of all persons in possession of such public moneys, papers or other property appertaining to Government to make over the same forthwith to the Collector, and every person knowing where any such property is concealed shall be bound to give information of the same to the Collector.

Surety liable in same manner as principal.

27. The surety or sureties of such officer or other person as is aforesaid, who may enter into a bond, in the form of schedule B, shall be liable to be proceeded against jointly and severally in the same manner as his or their principal is liable to be proceeded against, in case of default, and notwithstanding such principal may be so proceeded against.

Provided always that in any case of failure to discharge or make good any sum of money due to Government or to produce any property of Government of ascertained value, no greater sum than is sufficient to cover any loss or damage which the Government may actually sustain by the default of the principal, shall be recovered from the surety or sureties as the amount which may be due from such surety or sureties under the terms of the security-bond executed by him or them. Extent of liability.

And provided also, that the said surety or sureties shall in no case be liable to imprisonment in default of producing public papers or property, if he or they pay into the Government-treasury the whole or such part of the penalty named in the bond as may be demanded. Sureties not liable to imprisonment, if penalty paid.

28. If an officer or other person as aforesaid, or his surety or sureties, against whom a demand is made, shall give sufficient security in the form of schedule D, the Collector shall cause such officer or surety if in custody to be liberated, and countermand the sale of any property that may have been attached, and restore it to the owner. Officer or surety in jail may, by furnishing security, obtain release.

29. The liability of the surety or sureties shall not be affected by the death of a principal, or by his appointment to a situation different from that which he held when the bond was executed, but shall continue so long as the principal occupies any situation in which security is required under section 23, and until his bond is cancelled. Liability of surety not affected by death of principal or his taking different appointment.

The heirs of a deceased officer shall be liable by suit in the civil Court for any claims which Government may have against the deceased, in the same way as they would be for similar claims made by an individual. Liability of heirs of deceased officer.

30. Any surety, whether under a separate or joint bond, may withdraw from his suretyship at any time on his stating in writing, to the officer to whom the bond has been given, that he desires so to withdraw; and his responsibility under the bond shall cease after sixty days from the date on which he gives such writing, as to all demands upon his principal concerning moneys, papers or other property for which his principal may become chargeable after the expiration of such period of sixty days, but shall not cease as to any demands for which his principal may have become liable before the expiration of such period, even though the facts establishing such liability may not be discovered till afterwards. How surety may withdraw from further liability.

CHAPTER IV.

Of certain Acts prohibited to Revenue-officers, and of their Punishment for Misconduct.

31. No revenue-officer shall, except with the express permission of Revenue-

officers, without permission, not to trade;

Government, or of the Collector, or Superintendent of Survey to whom he is subordinate,

(1) engage in trade, or be in any way concerned, directly or indirectly, either as principal or agent, in any commercial transaction whatever;

not to purchase at public sale;

(2) purchase or bid either in person or by agent, or in his own name or in the name of another, or jointly or in shares with others, for any property which may, under the provisions of this Act or of any other law for the time being in force, be sold by order of any revenue or judicial authority in the district in which such officer is at the time employed;

not to be concerned in revenue,

(3) hold directly or indirectly any farm or be in any way concerned on his private account in the collection or payment of revenue of any kind in the district in which he is at the time employed;

and no revenue-officer shall

not to make private use of public money or property,

(4) derive either for himself or for any other individual any profit or advantage beyond his lawful salary or emolument from any public money or property with the collection or charge of which he is entrusted or connected; or

not to make or receive undue exactions or presents

(5) demand or receive, under the colour or by the exercise of his authority as such revenue-officer, or by way of gratification or otherwise, or knowingly permit any other person to demand or receive on his behalf, any sum or any consideration whatever over and above what he is legally entitled to demand or receive under the provisions of this Act or of any other law for the time being in force.

Power of fining, reducing, suspending and dismissing in whom to vest

32. Subject to rules or orders made under section 214, all revenue-officers may be fined, reduced, suspended or dismissed for any such offence as is described in the last preceding section, or for any breach of departmental rules or discipline, or for carelessness, unfitness, neglect of duty or other misconduct by the authority by whom such officer is appointed; or by any authority superior to such authority; and this power may be delegated by such first-mentioned authority, in whole or in part, to any subordinate officer on the same condition that the power of appointment may be delegated under section 21:

Officer to be fined, &c., only by order of Government.

Provided that, excepting Mámlatdárs, no revenue-officer, whose monthly salary exceeds rupees 250, shall be fined, suspended, reduced or dismissed except by order of the Governor in Council.

Orders to be made in writing

33. When any revenue-officer passes an order for fining, reducing, suspending or dismissing any subordinate officer, he shall record such order or cause the same to be recorded, together with the reasons therefor, in writing under his signature in the language of the district or in English.

Fine not to exceed two months' pay.

34. No fine inflicted under the foregoing provisions shall in any case exceed the amount of two months' pay of the office held by the offender at the time of the commission of the offence.

All fines inflicted under this chapter may be recovered from the officer's pay or, if necessary, may be realized in the same way as arrears of land-revenue are recoverable under this Act. how recovered.

35. If the Collector or Superintendent of Survey, whether of his own motion or on appeal from a subordinate officer's order, pass an order for fining, reducing, suspending or dismissing any revenue-officer subordinate to him whose monthly salary does not exceed thirty-five rupees, or Appeals.

if any authority superior to the Collector or Superintendent of Survey pass any such order against a revenue-officer whose monthly salary does not exceed ninety-nine rupees, no appeal shall lie against such order, except and provided always that at least one appeal shall lie against every order made, of his own motion, by any authority other than Government, for dismissing an officer whose monthly salary exceeds thirty-five rupees.

And no appeal shall lie against any order for inflicting a fine not exceeding one rupee.

36. Nothing in this chapter shall affect any officer's liability to a criminal prosecution for any offence with which he may be charged. Liability to criminal prosecution not affected.

Any officer subjected to such prosecution may be suspended pending the trial, and at its close may, upon a consideration of the circumstances brought to light during its course, be suspended, reduced or dismissed by any competent authority, whether he have been found guilty or not. Officer may be suspended during trial, and subsequently suspended, reduced or dismissed.

CHAPTER V.

Of Land and Land-revenue.

Land.

37. All public roads, lanes and paths, the bridges, ditches, dikes and fences, on, or beside, the same, the bed of the sea and of harbours and creeks below high-water-mark, and of rivers, streams, nálás, lakes and tanks, and all canals and water-courses, and all standing and flowing water, and all lands, wherever situated, which are not the property of individuals, or of aggregates of persons legally capable of holding property, and except in so far as any rights of such persons may be established in or over the same, and except as may be otherwise provided in any law for the time being in force, are and are hereby declared to be, with all rights in or over the same, or appertaining thereto, the property of Government; and it shall be lawful for the Collector, subject to the orders of the Commissioner, to dispose of them in such manner as he may deem fit, or as may be authorized by general rules sanctioned by Government, subject always to the rights of way, and all other rights of the public or of individuals legally subsisting. Public roads, &c., and lands not property of others, belong to Government.

Explanation.—In this section "high-water-mark" means the highest point reached by ordinary spring-tides at any season of the year.

Lands may be assigned for special purposes, and,

38. Subject to the general orders of Government, it shall be lawful for survey-officer[a] whilst survey-operations are proceeding under chapter VIII of this Act, and at any other time for the Commissioner, to set apart lands the property of Government and not in the lawful occupation of any person or aggregate of persons in unalienated villages or unalienated portions of villages, for free pasturage for the village-cattle, for forest-reserves, or for any other public or municipal purpose;

when assigned, not to be otherwise appropriated without sanction.

and lands assigned specially for any such purpose shall not be otherwise appropriated or assigned without the sanction of the Commissioner; and in the disposal of land under section 37 due regard shall be had to all such special assignments.

Regulation of use of pasturage.

39. The right of grazing on free pasturage-lands shall extend only to the cattle of the village or villages to which such lands belong or have been assigned, and shall be regulated by rules to be from time to time, either generally or in any particular instance, prescribed by the Collector with the sanction of the Commissioner.

The Collector's decision in any case of dispute as to the said right of grazing shall be conclusive.

Trees.

Concession of Government-rights to trees in case of settlements completed prior to Act.

40. In villages, or portions of villages, of which the original survey-settlement has been completed before the passing of this Act, the right of Government to all trees in unalienated land, except trees reserved by Government, or by any survey-officer, whether by express order made at, or about, the time of such settlement, or under any rule or general order in force at the time of such settlement, or by notification made and published at, or at any time after, such settlement, shall be deemed to have been conceded to the occupant.

But in the case of settlements completed before the passing of Bombay Act I of 1865,[b] this provision shall not apply to teak, blackwood or sandalwood-trees. The right of Government to such trees shall not be deemed to have been conceded, except by clear and express words to that effect.

Concession in case of settlements completed after passing of Act.

In the case of villages or portions of villages of which the original survey-settlement shall be completed after the passing of this Act, the right of Government to all trees in unalienated land shall be deemed to be conceded to the occupant of such land, except in so far as any such rights may be reserved by Government, or by any survey-officer on behalf of Government, either expressly at or about the time of such settlement, or generally by notification made and

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[a] *Sic* in orig. [b] See *supra*, p 239.

published at any time previous to the completion of the survey-settlement of the district in which such village or portion of a village is situate.

Concession in case of land taken up after completion of settlement.

When permission to occupy land has been, or shall hereafter be, granted after the completion of the survey-settlement of the village or portion of a village in which such land is situate, the said permission shall be deemed to include the concession of the right of Government to all trees growing on that land, which may not have been, or which shall not hereafter be, expressly reserved at the time of granting such permission, or which may not have been reserved, under any of the foregoing provisions of this section, at or about the time of the original survey-settlement of the said village or portion of a village.

Government-trees and forests.

41. The right to all trees specially reserved under the provision of the last preceding section, and to all trees, brushwood, jungle or other natural product growing on land set apart for forest-reserves under section 32 of Bombay Act I of 1865,[a] or section 38 of this Act, and to all trees, brushwood, jungle or other natural product, wherever growing, except in so far as the same may be the property of individuals or of aggregates of individuals capable of holding property, vests in Government; and such trees, brushwood, jungle or other natural product shall be preserved or disposed of in such manner as Government may from time to time direct.

Road-side trees.

42. All road-side trees which have been planted and reared by, or under the orders of, or at the expense of, Government, or at the expense of local funds, vest in Government.

But in the event of such trees dying, or being blown down, or being cut down by order of the Collector, the timber shall become the property of the holder of the land in which they were growing; and the usufruct, including the loppings of such trees, shall also vest in the said holder; provided that the trees shall not be lopped except under the orders of the Collector.

If the holder of any land in which such trees are growing shall so desire and shall make an application to the Collector for the purpose at any time within two years from the date on which this Act shall come into operation, the Collector shall deduct the strip of land covered by the said trees from his holding, and remit thenceforward the proportionate amount of land-revenue due upon the strip so deducted.

Any strip of land so deducted shall, with the trees upon it, vest thereafter in Government.

Recovery of value of trees, &c., unauthorizedly appropriated.

43. Any person who shall unauthorizedly fell and appropriate any tree or any portion thereof or remove any other natural product which is the property of Government, shall be liable to Government for the value thereof, which shall

[a] Section 32 is repealed by this Act.

be recoverable from him as an arrear of land-revenue, in addition to any penalty to which he may be liable under the provisions of this Act for the occupation of the land or otherwise; and notwithstanding any criminal proceedings which may be instituted against him in respect of his said appropriation of Government-property.

The decision of the Collector as to the value of any such tree, or portion thereof, or other natural product, shall be conclusive.

Regulation of supply of firewood and timber for domestic or other purposes.

44. In villages or lands in which the rights of Government to the trees have been reserved under section 40 subject to certain privileges of the villagers or of certain classes or persons to cut firewood or timber for domestic or other purposes, and in lands which have been set apart under section 38 for forest-reserves subject to such privileges, and in all other cases in which such privileges exist in respect of any alienated land, the exercise of the said privileges shall be regulated by rules to be from time to time, either generally or in any particular instance, prescribed by the Collector or by such other officer as Government may direct.

In any case of dispute as to the mode or time of exercising any such privileges the decision of the Collector or of such other officer shall be conclusive.

Land-revenue.

All land liable to pay revenue unless specially exempted.

45. All land, whether applied to agricultural or other purposes, and wherever situate, is liable to the payment of land-revenue to Government according to the rules hereinafter enacted, except such as may be wholly exempted under the provisions of any special contract with Government or any law for the time being in force.

Saving of right to levy revenue.

But nothing in this Act shall be deemed to affect the power of the legislature to direct the levy of revenue on all lands under whatever title they may be held whenever and so long as the exigencies of the State may render such levy necessary.

Liability of alluvial lands to land-revenue.

46. All alluvial lands, newly-formed islands or abandoned river-beds which vest, under any law for the time being in force, in any holder of alienated land, shall be subject in respect of liability to the payment of land-revenue to the same privileges, conditions or restrictions as are applicable to the original holding in virtue of which such lands, islands or river-beds so vest in the said holder, but no revenue shall be leviable in respect of any such lands, islands or river-beds until or unless the area of the same exceeds half an acre and also exceeds one-tenth of the area of the said original holding.

Right to remission in cases of diluvion.

47. Every holder of land paying revenue in respect thereof shall be entitled, subject to such rules as may be from time to time made in this behalf by the Governor in Council to a decrease of assessment if any portion thereof, not

being less than half an acre in extent, nor less than one-tenth of the holding, is lost by diluvion.

"Holding" defined.

The word "holding" in this section shall be deemed to mean a survey-number or any division of land on which a distinct or aggregate assessment has been fixed.

Lands chargeable with land-revenue.

48. The land-revenue leviable under the provisions of this Act shall be chargeable—

(*a*) upon land appropriated for purpose of agriculture;

(*b*) upon land from which any other profit or advantage than that ordinarily acquired by agriculture is derived;

(*c*) upon land appropriated for building-sites.

Assessment variable if purpose for which land is held is changed.

And the assessment fixed under the provisions of this Act upon any land appropriated for any one of the above purposes, shall be liable to be altered and fixed at a different rate when such land is appropriated for any other purpose, notwithstanding that the term, if any, for which such assessment was fixed may not have expired.

Land held rent-free for one purpose assessable if used for another.

And any land allowed by Government to be held free of assessment on condition of its being appropriated to one purpose shall become liable to assessment if at any time it is devoted to any other purpose.

Appropriation of land to certain purposes may be prohibited.

It shall also be lawful for the Collector or for a survey-officer, subject to rules or orders made in this behalf under section 214, to prohibit the appropriation of any unalienated land liable to the payment of land-revenue for certain purposes, and to summarily evict any holder who may appropriate, or attempt to appropriate, the same to such prohibited purposes.

Land indirectly taxed to State, or

49. When it has been customary to levy any special or extra cess, fine or tax, however designated, from any holder of land, which though nominally wholly or partially exempt from the payment of land-revenue, has by the exaction of such cess, fine or tax been indirectly taxed to the State,

land liable to occasional assessment,

or when any land ordinarily, or under certain circumstances, wholly or partially exempt from assessment, is subject occasionally, or under particular circumstances, to the payment of assessment, or of any cess or tax however designated,

liable to commuted assessment.

the said assessment, cess, fine or tax may be commuted into an annual assessment on the land to be paid under all circumstances, but such commuted assessment shall not exceed such amount as the Commissioner shall deem to be a fair equivalent of the assessment, cess, fine or tax for which it is substituted, and shall not be in excess[a] the assessment to which the land would be ordinarily subject, if no right to exemption existed in respect thereof.

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[a] *Sic.* Read "of the assessment."

Superior holder may recover commuted assessment from inferior holder.

50. Whenever any such cess, fine or tax hitherto payable by an inferior holder shall be made leviable from the superior holder, it shall be lawful for such superior holder to recover from such inferior holder the amount of the commuted assessment fixed in lieu of such cess, fine or tax.

Excess of assessment may be laid on land inadequately assessed held with it.

51. When it has been customary to levy a larger revenue under the name of "*veta*" or any other designation, upon any portion of land than such portion would ordinarily be liable to in consideration of other land being held with it which is wholly or partially exempt from payment of revenue, the excess of revenue payable on the said portion of land may be charged upon the land hitherto held wholly or partially exempt.

Assessment by whom to be fixed.

52. On all lands not wholly exempt from payment of land-revenue, and not within the local operation of an order made under section 95, the assessment of the amount to be paid as land-revenue shall be fixed at the discretion of the Collector, subject to rules or orders made in this behalf under section 214, and the amounts due according to such assessment shall be levied on all such lands:

Proviso.

Provided that in the case of lands partially exempt from land-revenue, or the liability of which to payment of land-revenue is subject to special conditions or restrictions, respect shall be had in the fixing of the assessment and the levy of the revenue to all rights legally subsisting, according to the nature of the said rights.

Register of alienated lands.

53. A register shall be kept by the Collector in such form as may from time to time be prescribed by the Governor in Council of all lands the alienation of which has been established or recognized under the provisions of any law for the time being in force; and when it shall be shown to the satisfaction of the Collector that any sanad granted in relation to any such alienated lands has been permanently lost or destroyed, he may, subject to the rules and the payment of the fees prescribed by the Governor in Council under section 213, grant to any person whom he may deem entitled to the same a certified extract from the said registrar,[a] which shall be endorsed by the Collector, to the effect that it has been issued in lieu of the sanad said to have been lost or destroyed, and shall be deemed to be as valid a proof of title as the said sanad.

Settlement of assessment with whom to be made.

54. The settlement of the assessment of each portion of land, or survey-number, to the land-revenue, shall be made with the person who, under section 136, is primarily responsible to Government for the same.

When to be made with under-holder.

If the said person be absent, and have left no known authorized agent in the district, so that the settlement of the assessment cannot be concluded

[a] *Sic.* Read "register."

with him, such settlement may be made with the person holding under him, or in occupation of the land.

Rates for use of water.

55. The Governor in Council may authorize the Collector or the officer in charge of a survey, or such other officer as he deems fit, to fix such rates as he may from time to time deem fit to sanction for the use, by landholders and other persons, of water the right to which vests in Government, and in respect of which no rate is leviable under the Bombay Irrigation Act, 1879.[a]

Such rates shall be liable to revision at such periods as Government shall from time to time determine, and shall be recoverable as land-revenue.

Land-revenue a paramount charge on land.

56. Arrears of land-revenue due on account of land by any landholder shall be a paramount charge on the holding and every part thereof, failure in payment of which shall make the occupancy or alienated holding, together with all rights of the occupant or holder over all trees, crops, buildings and things attached to the land, or permanently fastened to anything attached to the land, liable to forfeiture, whereupon the Collector may levy all sums in arrear by sale of the occupancy or alienated holding, freed from all tenures, incumbrances and rights created by the occupant or holder or any of his predecessors in title, or in any wise subsisting as against such occupant or holder, or may otherwise dispose of such occupancy or alienated holding under rules or orders made in this behalf under section 214.

Forfeited holding may be taken possession of and otherwise disposed of.

57. It shall be lawful for the Collector, in the event of the forfeiture of a holding through any default in payment or other failure occasioning such forfeiture under the last section or any law for the time being in force, to take immediate possession of the land embraced within such holding, and to dispose of the same by placing it in the possession of the purchaser or other person entitled to hold it according to the provisions of this Act or any other law for the time being in force.

Receipts to be granted by revenue-officers.

58. Every revenue-officer receiving a payment of land-revenue shall give a written receipt for the same.

And by superior holders.

And every superior holder of an alienated village, or of an alienated share of a village, shall give a written receipt for every payment of rent or land-revenue made to him by an inferior holder, and every such receipt shall be countersigned by the village-accountant, if there be any.

Penalty for failure to grant receipts.

59. Any person convicted of a breach of the provisions of the last preceding section after summary inquiry before the Collector, shall be liable to a fine not exceeding three times the amount received for which a receipt was not duly granted, and one-half of the fine may, at the discretion of the Collector, be paid to the informer, if any. Such inquiry may at any time be instituted by the Collector of his own motion without any complaint being preferred to him.

[a] See Bom. Act VII of 1879, sec. 2.

CHAPTER VI.

Of the Occupation of unalienated Land and the Rights of Occupants.

Occupation.

Permission required previous to taking up unoccupied land.

60. Any person desirous of taking up unoccupied land which has not been alienated must, previously to entering upon occupation, obtain the permission in writing of the Mámlatdár or Mahálkari.

Penalties for unauthorized occupation of land.

61. Any person who shall unauthorizedly occupy any land set apart for any special purpose, or any unoccupied land which has not been alienated, shall,

if the land which he unauthorizedly occupies forms part of an assessed survey-number, pay the assessment of the entire number for the whole period of his occupation, and

if the land so occupied by him has not been assessed, such amount of assessment as would be leviable for the said period in the same village on the same extent of similar land appropriated to the same purpose;

and shall also be liable, at the discretion of the Collector, to a fine not exceeding five rupees, or a sum equal to ten times the amount of assessment payable by him for one year, if such sum be in excess of five rupees, if he have taken up the land for purposes of cultivation, and not exceeding such limit as may be fixed in rules or orders made in this behalf under section 214, if he have appropriated it to any non-agricultural purpose.

The Collector's decision as to the amount of assessment payable for the land unauthorizedly occupied shall be conclusive, and in determining its amount occupation for an incomplete portion of a year shall be counted as for a whole year.

The person unauthorizedly occupying any such land may be summarily evicted by the Collector, and any crop he may have raised on the land shall be liable to forfeiture, and any building or other construction he may have erected thereon shall also, if not removed by him after such written notice as the Collector may deem reasonable, be liable to forfeiture.

Forfeitures under this section shall be adjudged by the Collector, and any property so forfeited shall be disposed of as the Collector may direct.

Occupancy-right to be paid for and liable to conditions

62. It shall be competent to the Collector, subject to such orders as may from time to time be made by the Governor in Council, to require the payment of a certain price for the occupancy, or to sell that right by auction, and to annex such conditions to the occupancy as may seem fit, before permission to occupy is granted under section 60.

Price to

The price of an occupancy shall include the price of the Government-right

to all trees not specially reserved under the provisions of section 40, and shall be recoverable as an arrear of land-revenue

Include price of trees

63 When it appears to the Collector that the occupancy of any alluvial land which vests, under any law for the time being in force, in Government, may, with due regard to the interests of the public revenue, be disposed of in perpetuity, he shall offer the prior right of occupancy thereof to the occupant, if any, of the bank or shore on which such alluvial land has formed

Occupancy of alluvial land which vests in Government

The price of an occupancy so offered shall not exceed three times the annual assessment of the land of which the occupancy is offered

If the said occupant shall refuse such occupancy, the Collector may dispose of the same under the last preceding section without any restrictions as to the price thereof

64 When alluvial land forms on any bank or shore, the occupant, if any, of such bank or shore shall be entitled to the temporary use and occupation thereof, unless or until the area of the same exceeds half an acre, and also exceeds one-tenth of the area of his holding. When the area of the alluvial land exceeds the said extent, it shall be at the disposal of the Collector, subject to the provisions of the last preceding section

Temporary right to alluvial lands of small extent

The word "holding" in this section shall be deemed to mean a survey-number, or any division of land on which a distinct or aggregate assessment has been fixed

"Holding" defined

Occupants' Rights.

65 An occupant of land appropriated for purposes of agriculture is entitled by himself, his servants, tenants, agents or other legal representatives, to erect farm-buildings, construct wells or tanks, or make any other improvements thereon for the better cultivation of the land, or its more convenient occupation for the purposes aforesaid

Uses to which occupant of land for purposes of agriculture may put his land

But if any occupant wishes to appropriate his holding or any part thereof to any other purpose, the Collector's permission shall in the first place be applied for by the registered occupant.

Procedure if occupant wishes to apply land to other purpose

The Collector on receipt of such application shall at once furnish the applicant[a] with a written acknowledgment of its receipt, and after inquiry may either grant or refuse the same, but if the applicant receive no answer within three months from the date of the said acknowledgment, the Collector's permission may be deemed to have been granted

Unless the Collector shall in particular instances otherwise direct, no such application shall be recognized except it be made by the registered occupant

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[a] Read 'applicant'

Power to require fine in addition to special assessment

When any such land is thus appropriated to any purpose unconnected with agriculture, it shall be lawful for the Collector, subject to the general orders of Government, to require the payment of a fine in addition to any new assessment which may be leviable under the provisions of section 48

Penalty for so appropriating land without permission

66. If any such land be so appropriated without the permission of the Collector being first obtained, or before the expiry of three months from the date of the aforesaid acknowledgment, the occupant and any tenant, or other person holding under or through him, shall be liable to be summarily evicted by the Collector from the land so appropriated, and from the entire field or survey-number of which it may form a part, and the registered occupant shall also be liable to pay, in addition to the new assessment which may be leviable under the provisions of section 48 for the period during which the said land has been so appropriated, such fine as the Collector may, subject to the general orders of Government, direct

Co-occupant or tenant responsible to registered occupant in damages

Any co-occupant or any tenant of any occupant or any other person holding under or through an occupant, who shall without the registered occupant's consent appropriate any such land to any such purpose, and thereby render the said registered occupant liable to the penalties aforesaid, shall be responsible to the said registered occupant in damages

Permission may be granted on terms

67 Nothing in the last two preceding sections shall prevent the granting of the permission aforesaid in special cases on such terms as may be agreed on between Government and the registered occupant

Occupant's rights conditional

68 An occupant is entitled to the use and occupation of his land for the period, if any, to which his occupancy is limited, or if the period is unlimited, or a survey-settlement has been extended to the land in perpetuity, conditionally on the payment of the amounts due on account of the land-revenue for the same, according to the provisions of this Act or of any rules made under this Act, or of any other law for the time being in force, and on the fulfilment of any other terms lawfully annexed to his occupancy

Reservation of Government right to mines Proviso

69 The right of Government to mines and mineral-products in all unalienated land is and is hereby declared to be expressly reserved

Provided that nothing in this section shall be deemed to affect any subsisting rights of any occupant of such land in respect of such mines or mineral-products

Decree or order of competent Court to be given effect to

70 If by a decree or order of a competent Court it shall be adjudged that the occupant is an inferior holder under another person, or that the occupancy is vested in another person, or if, in the execution of such a decree or order, the interest of the occupant in the land have been transferred by sale or otherwise to another person, such other person shall, on producing a certified copy of the decree or order, or the Court's certificate of the sale or other

transfer, be deemed to be the occupant and be dealt with accordingly, and on written application being made to the Collector for the purpose, such change shall be made in the entry of the registered occupant's name as the circumstances require.

Name of heir to be registered when registered occupant dies.

71. On the death of a registered occupant, the Collector shall cause the name of his eldest son, or other person appearing to be his heir, or the principal of his heirs, to be registered in his stead, and the said heir shall thereafter be deemed the registered occupant, and, subject to the provisions of the last preceding section, shall be dealt with accordingly.

When entry to be amended.

But if at any time any person shall, by production of a certificate of heirship or of a decree or order of a competent Court, satisfy the Collector that he is entitled to be the registered occupant in preference to the person whose name the Collector has ordered to be registered, the Collector shall cause the entry in the Government-records to be amended accordingly.

Intestate occupancy or holding to be sold.

72. If an occupant who is either a Hindú, a Muhammadan or a Buddhist dies intestate and without known heirs, the Collector shall dispose of his occupancy by sale, subject to the provisions of this Act or of any other law at the time in force for the sale of forfeited occupancies in realization of the land-revenue, and the law at the time in force concerning property left by Hindús, Muhammadans or Buddhists, dying intestate and without known heirs, shall not be deemed to apply to the said occupancy, but only to the proceeds of such sale after deducting all arrears of land-revenue due by the deceased to Government and all expenses of the said sale.

Right of occupancy to be transferable and heritable.

73. The right of occupancy shall be deemed an heritable and transferable property subject to the provisions contained in section 56 or otherwise prescribed by law, and shall immediately pass to the person whose agreement to become occupant shall have been accepted by the Collector.

Relinquishment of Occupancy.

Occupant may relinquish occupancy.

74. An occupant may, by giving written notice to the Mámlatdár or Mahálkari, relinquish his occupancy, either absolutely or in favour of a specified person, provided that such relinquishment apply to the entire occupancy or to whole survey-numbers, or recognized shares of survey-numbers.

An absolute relinquishment shall be deemed to have effect from the close of the current year, and notice thereof must be given before the thirty-first March in such year, or before such other date as may be from time to time prescribed in this behalf for each district by the Governor in Council.

A relinquishment in favour of a specified person may be made at any time.

When there are more occupants than one, the notice of relinquishment

must be given by the registered occupant; and the person, f any, in whose favour an occupancy is relinquished, or, if such occupancy is relinquished in favour of more persons than one, the principal of such persons, must enter into a written agreement to become the registered occupant, and his name shall thereupon be substituted in the records for that of the previous registered occupant.

Relinquishment of lands paying lump-assessment.

75. When a lump-assessment is fixed upon several fields or survey-numbers in the aggregate, it shall not be lawful for the occupant to relinquish as aforesaid any one or more of such fields or survey-numbers except with the previous consent of the Collector.

It shall be competent to the Collector to grant or refuse his consent; if he grants it, the occupancy shall be divided, and the Collector shall determine the proportional amount of land-revenue to be paid by each portion of it, and the original occupant, and the person, if any, in whose favour he relinquishes a portion of his occupancy, shall be held liable for the revenue severally assessed on their portions.

Application of sections 74, 75.

76. The provisions of the two last sections shall apply, as far as may be, to the holders of alienated land: provided that—

Relinquishment of land described in paragraph 1 of section 49.

(*a*) it shall not be lawful to relinquish, as aforesaid, any portion of any land held wholly or partially exempt under the circumstances described in the first paragraph of section 49, until the commuted assessment payable in respect of such portion of land has been determined under the provisions of the said section; and that

Relinquishment of land described in section 51.

(*b*) if any person relinquish land on which, under the circumstances described in section 51, a larger revenue is levied than would ordinarily be leviable on such land, he shall be deemed to have relinquished also the land held with it which is wholly or partially exempt from payment of revenue.

Right of way to relinquished land.

77. If any person relinquishes land, the way to which lies through other land which he retains, the right of way through the land so retained shall continue to the future holder of the land relinquished.

Sections 75 and 76 not to affect—

78. Nothing in sections 75 and 76 shall affect—

responsibility of share in certain village;

(*a*) the responsibility of any share in a village for the land-revenue of which the sharers are all, according to law or the custom of the village, jointly responsible, or

validity of lease from Government

(*b*) the validity of the terms or conditions of any lease or other express instrument under which land is, or may hereafter be, held from Government.

Occupant to continue liable for demands until

79. The registered occupant or the holder of alienated land shall continue liable for the land-revenue due on the occupancy or alienated holding and for all other lawful demands of Government in respect of the same, until such

time as the occupancy or alienated holding is relinquished or transferred, under any of the provisions of this Act, to the name of any other person; and the Collector shall not be bound in any case to recognize any person to whom any interest in any portion of an occupancy or alienated holding has been assigned, unless the transfer has been recorded in the revenue-records in accordance with the foregoing provisions. occupancy relinquished.

Remedies against Forfeiture of Occupancies.

80. In order to prevent the forfeiture of an occupancy under the provisions of section 56 or of any other law for the time being in force, through non-payment by the registered occupant of the land-revenue due on account thereof, it shall be lawful for any co-occupant, tenant, mortgagee or other person interested in the continuance of the occupancy to pay on behalf of such registered occupant all sums due on account of land-revenue, and for the Collector to receive the same. Right of person other than occupant to pay land-revenue to prevent forfeiture.

And in any such case the Collector may give to the person who has paid the land-revenue as aforesaid such aid for the recovery of the proportional amounts which he may consider to be properly payable by other persons in occupation of parts of a field or survey-number as he might legally have given had the persons so paying been the registered occupants: Collector may assist such persons in recovering the revenue from other parties liable therefor.

Provided that nothing authorized or done under the provisions of this section shall affect the rights of the parties interested as the same may be established in any suit between such parties in a Court of competent jurisdiction. Proviso.

81. If it shall appear to the Collector that a registered occupant has failed to pay land-revenue, and has thus incurred forfeiture with a view to injure or defraud his co-occupants or other persons interested in the continuance of the occupancy, or that a sale of the occupancy will operate unfairly to the prejudice of such co-occupants or other persons, it shall be lawful for him, instead of selling the occupancy, to forfeit only the said registered occupant's interest in the same and to substitute the name of any such co-occupant or other person as registered occupant thereof in the revenue-records, on his payment of all sums due on account of land-revenue for the occupancy; and such person so becoming the registered occupant shall have the rights and remedies with respect to all other persons in occupation provided for by section 86. When Collector may make co-occupant the registered occupant instead of selling occupancy to realize land-revenue.

Suspension of certain Provisions of this Chapter.

82. It shall be lawful for the Governor in Council, by notification in the *Bombay Government Gazette*, from time to time, Power to suspend operation of section 60 or 74.

(*a*) to suspend the operation of section 60 or 74, or of both, within any

prescribed local area, either generally, or in respect of cultivators or occupants of a particular class or classes, and

(*b*) to cancel any such notification.

During the period for which any notification under the above clause (*a*) is in force within any local area, such rules shall be substituted for the provisions of which the operation is suspended as the Commissioner shall from time to time direct.

CHAPTER VII.

Of Superior and Inferior Holders.

Tenants' Rights.

Amount of rent payable by tenant.

83. A person placed, as tenant, in possession of land by another, or, in that capacity, holding, taking or retaining possession of land permissively from or by sufferance of another, shall be regarded as holding the same at the rent, or for the services, agreed upon between them; or in the absence of satisfactory evidence of such agreement, at the rent payable or services renderable by the usage of the locality, or if there be no such agreement or usage, shall be presumed to hold at such rent as, having regard to all of the circumstances of the case, shall be just and reasonable.

Duration of tenancy.

And where by reason of the antiquity of a tenancy, no satisfactory evidence of its commencement is forthcoming, and there is not any such evidence of the period of its intended duration, if any, agreed upon between the landlord and tenant, or those under whom they respectively claim title, or any usage of the locality as to duration of such tenancy, it shall, as against the immediate landlord of the tenant, be presumed to be co-extensive with the duration of the tenure of such landlord and of those who derive title under him.

Presumption as to tenure

And where there is no satisfactory evidence of the capacity in which a person in possession of land in respect of which he renders service or pays rent to the landlord, received, holds or retains possession of the same, it shall be presumed that he is in possession as tenant.

Saving clause.

Nothing contained in this section shall affect the right of the landlord (if he have the same either by virtue of agreement, usage or otherwise) to enhance the rent payable, or services renderable, by the tenant, or to evict the tenant for non-payment of the rent or non-rendition of the services, either respectively originally fixed or duly enhanced as aforesaid.

Termination of annual tenancy.

84. An annual tenancy shall, in the absence of proof to the contrary, be presumed to run from the end of one cultivating season to the end of the next. The cultivating season may be presumed to end on the thirty-first March.

An annual tenancy shall require for its termination a notice given in writing by the landlord to the tenant, or by the tenant to the landlord, at least three months before the end of the year of tenancy at the end of which it is intimated that the tenancy is to cease. Such notice may be in the form of schedule E or to the like effect. Notice of termination of tenancy to be given by landlord to tenant, or *vice versâ*.

85. It shall be incumbent on every superior holder of an alienated village and on every superior holder of an alienated share of a village in which there exists an hereditary pátel and village-accountant, to receive his dues on account of rent or land-revenue from the inferior holders through the said village-officers. Superior holders' dues by whom to be collected.

Any such superior holder demanding or receiving payment from any inferior holder of any rent or land-revenue otherwise than through the said village-officers shall, on conviction in a summary inquiry before the Collector, forfeit to Government three times the amount of the sum so demanded or received.

Every such hereditary pátel or accountant shall be bound to receive and account to the said superior holder for all sums paid to or recovered by him on account of the said superior holder; and on his or their failure to do the same, the superior holder shall, with the previous consent of the Collector, be entitled to recover his dues direct from the inferior holders.

Recovery of superior Holders' Dues.

86. Superior holders shall, upon written application to the Collector, be entitled to assistance, by the use of precautionary and other measures, for the recovery of rent or land-revenue payable to them by inferior holders, or by co-sharers in their holdings, under the same rules, except that contained in section 137, and in the same manner, as prescribed in chapter XI of this Act for the realization of land-revenue by Government: Superior holders entitled to assistance in recovery of dues from inferior holders, &c.

Provided that such application be made within the revenue-year or within the year of tenancy in which the said rent or land-revenue became payable. Application for assistance when to be made.

87. On application being made under section 86 to the Collector, he shall cause a written notice thereof to be served on the inferior holder or co-sharer fixing a day for inquiry into the case. Collector how to proceed on such application.

On the day so fixed he shall hold a summary inquiry, and shall pass an order for rendering assistance to the superior holder for the recovery of such amount, if any, of rent or land-revenue as appears to him upon the evidence before him to be lawfully due.

But, if it appears to the Collector that the question at issue between the parties is of a complicated or difficult nature, he may in his discretion either refuse the assistance asked for, or, if the land to which the dispute relates has Assistance may be refused or granted in part.

been assessed under the provisions of chapter VIII of this Act or at any survey-settlement confirmed by section 112, grant assistance to the extent only of the assessment so fixed upon the said land.

Civil suit not barred.

Nothing in this section shall prevent either party from having recourse to the civil Courts to recover from the other such amount as he may deem to be still due to him, or to have been levied from him in excess of what was due, as the case may be.

Grant of special Powers to Holders of alienated Lands.

Governor in Council may, by commission, confer on holders of alienated lands power—

88. It shall be lawful for the Governor in Council at any time to issue a commission to any holder of alienated lands, conferring upon him all or any of the following powers in respect of the lands specified in such commission (namely) :—

to demand security for land-revenue;

(*a*) to demand security for the payment of the land-revenue or rent due to him, and if the same be not furnished, to take such precautions as the Collector is authorized to take under sections 141 to 143;

to attach defaulter's property;

(*b*) to attach the property of persons making default in the payment of such land-revenue or rent, as aforesaid;

to fix time at, and instalments in, which revenue due shall be paid;

(*c*) to fix from time to time the times at which, and the instalments in which, the land-revenue or rent due to him shall be payable;

to exercise Collector's powers;

(*d*) to exercise the powers of a Collector under sections 65 and 66;

to receive notices of relinquishment;

(*e*) to receive notices of relinquishment under section 74, and to determine the date up to which such notices shall be received as in that section provided;

to arrange for repair of boundary-marks.

(*f*) to take measures for the maintenance and repair of boundary-marks in the manner provided for survey-officers in section 122:

Proviso.

Provided that the powers contemplated in clauses (*c*) to (*f*) shall be conferred only on holders of lands to which a survey-settlement has been extended under the provisions of section 216.

Form of such commission

89. Every such commission shall be in the form of schedule F, and shall be liable to be withdrawn at the pleasure of Government; and a commission may, if the Governor in Council see fit, be issued to one or more agents of a holder of alienated lands as well as to the holder in person.

Reference to be made by holder of commission to Collector.

90. If the holder of any such commission attach a defaulter's property, he shall make an immediate report to the Collector of his having done so. Should the demand on account of which the attachment has been made appear to the Collector, after such inquiry as he may deem fit to make, to be just, he shall

give orders for the sale of the property, and the sale shall be conducted agreeably to the provisions of sections 165 to 186.

But if the holder of the commission is invested, under Regulation XIII of 1830,[a] with civil jurisdiction and with power to execute his own or his agent's decrees, the sale shall be conducted by him and not by the Collector and his subordinates.

91. All compulsory process shall cease

on the defaulter's paying or tendering the amount demanded of him under protest, or

on his furnishing, either to the holder of the commission or his agent or agents, or to the Collector, satisfactory security in the form of schedule D, or to similar effect.

When compulsory process shall cease.

And any holder of any such commission as aforesaid, by himself or his agents, proceeding with any compulsory process after payment made or tendered as aforesaid, or after the furnishing of such security as aforesaid, or after tender thereof, shall be liable on conviction in a summary inquiry before the Collector, to a penalty not exceeding three times the amount of the revenue sought to be recovered by such compulsory process.

Penalty for continuing compulsory process.

92. The power conferred by any such commission shall extend to the enforcement of the payment of the revenue or rent of the current year and of the year next immediately preceding, but not to that of former years.

Arrears to which power under commission to extend.

93. The holder of any such commission shall not enforce a demand for revenue or rent in excess of what any inferior holder has paid previously to the date of such demand, or of what he may have contracted in writing to pay.

In the event of a dispute the Collector shall hold a summary inquiry and decide what is just, and the holder of a commission shall not enforce a demand for more than what is so decided to be just.

Holder of commission not to enforce unusual or excessive demand.

The person against whom any demand shall have been enforced in excess of the amount of which payment is lawfully enforceable shall be entitled to recover, on conviction of the holder of the commission in a summary inquiry before the Collector, three times the amount of any such excessive demand by way of damages, and the sum so due by the holder of the commission shall be leviable from him as an arrear of land-revenue.

Penalty for so doing.

94. Nothing in the last section shall be deemed to prevent a holder of alienated land from instituing a suit in any Court of competent jurisdiction for the purpose of establishing his claim to re-assess the lands or re-settle the revenue of any inferior holder paying less than the full sum to payment of which he deems him to be justly liable, or from levying the sum ascertained

Holder of commission may establish right to enhanced rent in civil Court.

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[a] See *supra*, p. 43.

to be due in accordance with the decree in any such suit in the manner hereinbefore mentioned.

CHAPTER VIII.

Of Survey-settlements and the Partition of Estates.

Power to introduce revenue-survey into any part of Presidency.

95. It shall be lawful for the Governor in Council, whenever it may seem expedient, to direct the survey of any land in any part of the Presidency, with a view to the settlement of the land-revenue, and to the record and preservation of rights connected therewith, or for any other similar purpose, and such survey shall be called a revenue-survey.

Such survey may extend to the lands of any village, town or city generally, or to such land only as the Governor in Council may direct; and, subject to the orders of the Governor in Council, it shall be lawful for the officers conducting any such survey to except from the survey-settlement any land to which it may not seem expedient that such settlement should be applied.

Control of revenue-survey.

The control of every such revenue-survey shall vest in, and be exercised by, the Governor in Council.

Survey-officer may require, by general notice or by summons, suitable service from holders of land, &c.

96. It shall be lawful for the survey-officer deputed to conduct or take part in any such survey to require, by general notice or by summons, the attendance of holders of lands and of all persons interested therein, in person or by legally constituted agent duly instructed and able to answer all material questions, and the presence of taluqa and village-officers, who in their several stations and capacities are legally, or by usage, bound to perform service in virtue of their respective offices, and to require from them such assistance in the operations of the survey and such service in connection therewith, as may not be inconsistent with the position of the individual so called on.

Assistance to be given by holders and others in measurement or classification of lands.

97. It shall be lawful for the survey-officer to call upon all holders of land and other persons interested therein to assist in the measurement or classification of the lands to which the survey extends by furnishing flag-holders; and in the event of a necessity for employing hired labour for this or other similar object incidental to survey-operations, it shall be lawful to assess the cost thereof, with all contingent expenses, on the lands surveyed, for collection as a revenue-demand.

Survey-numbers not to be of less extent than minimum fixed.

98. Except as hereinafter provided, no survey-number comprising land used for purposes of agriculture only shall be made of less extent than a minimum to be fixed from time to time for the several classes of land in each district by the Commissioner of Survey, with the sanction of Government.

A record of the minima so fixed shall be kept in the Mámlatdár's office in each taluqa, and shall be open to the inspection of the public at reasonable times.

These provisions shall not apply to survey-numbers which have already been made of less extent than the minima so fixed, or which may be so made under the authority of the Commissioner of Survey given either generally or in any particular instance in this behalf; and any survey-number separately recognized in the survey-records shall be deemed to have been authorizedly made, whatever be its extent. Exception.

99. Recognized shares of survey-numbers shall be subject to the same provisions of this Act as are applicable to entire survey-numbers, except— Provisions applicable to recognized shares of survey-numbers.

(*a*) that it shall not be obligatory to demarcate such shares separately, and

(*b*) that if any such share is relinquished by the occupant absolutely under the provisions of section 74, the occupancy thereof shall be offered to the occupants of the other shares of the same survey-number in order of their[a] relative largeness of the amounts payable by them respectively on account of the assessment of their said shares, and that, in the event of their all refusing the occupancy of the said share, the assessment thereon shall, until such time as the entire number is relinquished by them, be levied from them in proportion to the amounts of assessment payable by them as aforesaid.

100. Subject to rules or orders made in this behalf, under section 214, the officer in charge of a survey shall have authority to fix the assessment for land-revenue at his discretion on all lands within the local operation of an order made under section 95, not wholly exempt from land-revenue, and the amounts due according to such assessment shall, subject to the provisions of section 102, be levied on all such lands. Officer in charge of survey to fix assessments.

In fixing such assessment, regard shall be had to the requirements of the proviso to section 52: Regard to be had to proviso to section 52.

But nothing in this section shall be deemed to prevent the survey-officer aforesaid from determining and registering the proper full assessment on lands wholly exempt from payment of land-revenue or on lands especially excepted under section 95 from the survey-settlement, or from dividing all such lands to which the survey extends into survey-numbers. Proviso.

101. The power to assess under the preceding section shall, in the case of lands used for purposes of agriculture alone, include power to assess, whether directly on the land, or in the form of a rate or cess upon the means of irrigation in respect of which no rate is levied under section 55, or under the Bombay Irrigation Act, 1879, or in any other manner whatsoever that may be sanctioned by Government. Assessment may be on land, or on means of irrigation, &c.

102. The assessment fixed by the officer in charge of a survey shall not be levied without the sanction of Government. It shall be lawful for the Governor in Council to declare such assessments, with any modifications which he Assessments not leviable without sanction of Government.

[a] *Sic.* Read "the."

But may be fixed, with or without modification, for term of years.

may deem necessary, fixed for a term of years not exceeding thirty in the case of lands used for the purposes of agriculture alone, and not exceeding ninety-nine in the case of all other lands.

Introduction of survey-settlement how made.

103. When in the case of lands used for the purposes of agriculture alone, Government shall have sanctioned the assessments fixed by the officer in charge of the survey, it shall be the duty of the said officer, or of the Collector or Assistant or Deputy Collector, publicly to announce, or to cause to be announced, the assessment fixed on each survey-number.

The said officer, or the Collector or Assistant or Deputy Collector, shall, at a reasonable time beforehand, cause public notice to be given, in such manner as he shall deem fit, of the time at or about which the assessments will be announced as aforesaid.

If the holder or other person interested in any holding do not appear in person or by agent, he shall be subject, nevertheless, to the same liabilities as if he had attended.

When the assessments have been announced in the manner provided in the first clause of this section, the survey-settlement shall be held to have been introduced.

Excess-assessment not to be levied in year in which survey-settlement is introduced.

104. In the year in the course of which a survey-settlement, whether original or revised, may be introduced under the last preceding section, the difference between the old and new assessment of all lands on which the latter may be in excess of the former shall be remitted, and the revised assessment shall be levied only from the next following year.

Nor in following year if number resigned that year.

In the year next following that in which any revised survey-settlement has been introduced, any occupant who may be dissatisfied with the increased rate imposed by such new assessment on any of the survey-numbers held by him, shall, on resigning such number in the manner prescribed by sections 74 and 76 on or before the thirty-first March, receive a remission of the increase so imposed.

Fixing of assessment under section 102 limited to ordinary land-revenue.

105. The fixing of the assessment under the provisions of section 102 shall be strictly limited to the assessment of the ordinary land-revenue, and shall not operate as a bar to the levy of any cess which it shall be lawful for the Governor in Council to impose under the provisions of any law for the time being in force for purposes of local improvement, such as schools, village and district-roads, bridges, tanks, wells, accommodation for travellers and the like, or of any rate for the use of water which may be imposed under the provisions of section 55, or of the Bombay Irrigation Act, 1879.

Government may direct fresh survey

106. It shall be lawful for the Governor in Council to direct, at any time, a fresh revenue-survey or any operation subsidiary thereto, but no enhancement

of assessment shall take effect till the expiration of the period previously fixed under the provisions of section 102. and revision of assessment.

A revised assessment shall be fixed, not with reference to improvements made from private capital and resources during the currency of any settlement made under this Act or under Bombay Act I of 1865,[a] but with reference to general considerations of the value of land, whether as to soil or situation, prices of produce, or facilities of communication. Improvements made from private resources not to be assessed.

107. Nothing in the last preceding section shall be held to prevent a revised assessment being fixed— Improvements which may be considered in fixing revised assessment.

(*a*) with reference to any improvement effected at the cost of Government, or

(*b*) with reference to the value of any natural advantage, when the improvement effected from private capital and resources consists only in having created the means of utilizing such advantage, or

(*c*) with reference to any improvement which is the result only of the ordinary operations of husbandry.

108. It shall be the duty of the survey-officer, on the occasion of making or revising a settlement of land-revenue, to prepare a register, to be called "the Settlement-register," showing the area and assessment of each survey-number, together with the name of the registered occupant of such survey-number and other records, in accordance with such orders as may from time to time be made on this behalf by Government. Preparation of statistical and fiscal records.

109. The survey-officer, or if the survey-settlement have been introduced under the provisions of section 103 by the Collector or Assistant or Deputy Collector, the Collector or Assistant or Deputy Collector shall at any time correct or cause to be corrected any clerical errors, and any errors which the parties interested admit to have been made in the settlement-register; Officers to correct clerical and admitted errors in settlement-register, and

he shall also receive and enquire into all applications made to him at any time within two years after the introduction of the survey-settlement for the correction of any wrong entry of a registered occupant's name in the said register, and if satisfied that an error has been made, whether through fraud, collusion, oversight or otherwise, shall correct or cause the same to be corrected, notwithstanding that all the parties interested do not admit the error; inquire into and pass orders on applications for mutation of names.

but he shall not receive any such application at any time after two years from the date of the introduction of the survey-settlement, unless good cause be shown to his satisfaction for the delay in making such application, and no such correction of the said register shall be made in consequence of any

[a] Repealed, except sections 37, 38, by this Act, sec. 2.

application made after the said period of two years, except with the previous sanction of Government.

Collector to keep survey-records and frame village-records in accordance therewith;

110. The Collector shall keep the settlement-register and such other records prepared by the survey-officer as Government shall direct, and shall cause the village-records and accounts to be prepared in accordance therewith;

and to register changes, &c.

he shall not make any alterations or corrections in the settlement-register, but shall cause to be registered in the village-records and accounts all changes that may take place, and anything that may affect any of the rights or interests therein recorded.

Revenue-management of villages or estates not belonging to Government that may be temporarily under Government-management.

111. In the event of any alienated village or estate coming under the temporary management of Government-officers, it shall be lawful for the Collector to let out the lands thereof at rates determined by means of a survey-settlement or at such other fixed rates as he may deem to be reasonable, and to sell the occupancy of unoccupied lands by auction, and otherwise to conduct the revenue-management thereof under the rules for the management of unalienated lands, so far as such rules may be applicable, and for so long as the said village or estate shall be under the management of Government-officers: provided, however, that any written agreements relating to the land, made by the superior holder of such village or estate shall not be affected by any proceedings under this section in so far as they shall not operate to the detriment of the lawful claims of Government on the land.

Maintenance of existing settlements of land-revenue.

112. Existing survey-settlements of land-revenue, made, approved and confirmed under the authority of the Governor in Council shall be, and are hereby declared to be, in force, subject to the provisions of this Act.

Partition.

Partition of estate paying revenue to Government.

113. The following rules shall be enforced at the partition of any estate paying land-revenue to Government (namely):—

(1) the estate shall be divided as far as possible according to survey-numbers without sub-dividing any number; but if the partition cannot be completely effected without sub-dividing a number, such sub-division may be made by the Collector, subject to the provisions of section 98;

(2) any number, or sub-division of a number, which may remain over after the partition has been carried out, as far as possible, according to the last rule, and which is incapable of sub-division or of further sub-division owing to the provision of section 98, shall be made over to one of the sharers in consideration of his paying to the other sharers the value in money of their shares in the same, or shall be

sold and the proceeds divided amongst all the sharers, or otherwise disposed of, as the Collector thinks fit;

(3) the expenses necessarily and properly incurred in making such partition shall be recoverable as a revenue-demand in such proportions as the Collector thinks fit from the sharers at whose request it is made, or from the persons interested in such partition.

Partition of certain estates by Collector on application by co-sharers.

114. Whenever any one or more co-sharers in a khoti estate, into which a revenue-survey has been introduced, or in a taluqdárí estate, consent to a partition of the said estate, it shall be lawful for the Collector, or for any other officer duly empowered by him in this behalf, subject to the rules contained in the last preceding section, to divide the said estate into shares according to the respective rights of the co-sharers, and to allot such shares to the co-sharers:

Provided that no such partition shall be made, unless—

(*a*) all the co-sharers are agreed as to the extent of their respective rights in the estate, and

(*b*) the assessment of the share or shares of the sharer or sharers consenting to such partition exceeds one-half of the assessment of the entire estate.

In such cases the expenses of partition shall be recovered under rule (3) of the last preceding section from all the co-sharers in the estate divided.

Sub-division of numbers at time of revision of survey.

115. At the time of a revision of survey, it shall be in the discretion of the officer in charge of the survey, subject to the provisions of section 98, and to any departmental rules or orders in this behalf at the time in force, to sub-divide any survey-number into two or more distinct numbers, and to enter the names and liabilities of the persons whom he shall deem entitled to be recognized as registered occupants of such sub-divisions in the settlement-register separately.

Separate demarcation of land appropriated under section 65 or 67.

116. When any portion of cultivable land is appropriated under the provisions of section 65 or 67 for any non-agricultural purpose, the portion so appropriated may, with the sanction of the Collector, be demarcated, and made into a separate number at any time, notwithstanding the provisions of section 98.

Bombay Act V of 1862 not affected.

117. Nothing in section 113, 115 or 116 shall affect the provisions of Bombay Act V of 1862.

CHAPTER IX.

THE SETTLEMENT OF BOUNDARIES AND THE CONSTRUCTION AND MAINTENANCE OF BOUNDARY-MARKS.

Determina

118. The boundaries of villages situated in British territory shall be fixed,

tion of village-boundaries.

and all disputes relating thereto shall be determined, by survey-officers, or by such other officers as may be nominated by Government for the purpose, who shall be guided by the following rules :—

Village-boundaries may be settled by agreement.

Rule 1.—When the pátels and other village-officers of any two or more adjoining villages, and in the case of an alienated village, the holder thereof or his duly constituted agent, shall voluntarily agree to any given line of boundary as the boundary common to their respective villages, the officer determining the boundary shall require the said parties to execute an agreement to that effect, and shall then mark off the boundary in the manner agreed upon.

And any village-boundary fixed in this manner shall be held to be finally settled, unless it shall appear to the said officer that the agreement has been obtained by fraud, intimidation or any other illegal means.

Procedure in case of disagreement or dispute.

Rule 2.—If the pátels and other village-officers, and, in the case of an alienated village, the holder thereof or his duly constituted agent, do not agree to fix the boundaries of their respective villages in the manner prescribed in the preceding rule, or if it shall appear to the said officer that the agreement has been obtained by fraud, intimidation or any other illegal means, or if there be any pending dispute, the said officer shall make a survey and plan of the ground in dispute, exhibiting the land claimed by the contending parties, and all particulars relating thereto, and shall hold a formal inquiry into the claims of the said parties, and thereafter make an award in the case. If either of the villages concerned be alienated, an award made by a survey-officer shall, unless the officer making it be the Superintendent of Survey, be subject to his confirmation, and an award made by any other officer shall be subject to confirmation by such other officer as Government may nominate for the purpose.

Determination of field-boundaries.

119. If, at the time of a survey, the boundary of a field or holding be undisputed, and its correctness be affirmed by the village-officers then present, it may be laid down as pointed out by the holder or person in occupation, and if disputed, or if the said holder or person in occupation be not present, it shall be fixed by the survey-officer according to the village-records, and according to occupation as ascertained from the village-officers and the holders of adjoining lands, or on such other evidence or information as the survey-officer may be able to procure.

If any dispute arise concerning the boundary of a field or holding which has not been surveyed, or if at any time after the survey-records have been handed over to the Collector, a dispute arise concerning the boundary of any survey-number, it shall be determined by the Collector, who shall be guided in the case of survey-numbers by the survey-records, if they afford satisfactory

evidence of the boundary previously fixed, and if not, by such other evidence as he may be able to procure.

Settlement of boundary-disputes by arbitration.

120. If the several parties concerned in a boundary-dispute agree to submit the settlement thereof to an arbitration-committee, and make application to that effect in writing, the officer whose duty it would otherwise be to determine the boundary shall require the said parties to nominate a committee of not less than three persons, within a specified time, and if within a period to be fixed by the said officer the committee so nominated or a majority of the members thereof arrive at a decision, such decision, when confirmed by the said officer, or if the said officer be a survey-officer lower in rank than a Superintendent of Survey, by the Superintendent of Survey, shall be final:

When award may be remitted for reconsideration.

Provided that the said officer, or the Superintendent of Survey, shall have power to remit the award, or any of the matters referred to arbitration, to the reconsideration of the same committee, for any of the causes set forth in section 520 of the Code of Civil Procedure.

If arbitration fail, survey-officer to settle dispute.

If the committee appointed in the manner aforesaid fail to effect a settlement of the dispute within the time specified, it shall be the duty of the officer aforesaid, unless he or, if the said officer is a survey-officer lower in rank than a Superintendent of Survey, the Superintendent of Survey, see fit to extend the time, to settle the same as otherwise provided in this Act.

Effect of settlement of boundary.

121. The settlement of a boundary under any of the foregoing provisions of this chapter shall be determinative:

(a) of the proper position of the boundary-line or boundary-marks, and

(b) of the rights of the landholders on either side of the boundary fixed in respect of the land adjudged to appertain, or not to appertain, to their respective holdings.

Boundary-marks.

Construction and repair of boundary-marks of villages and survey-numbers.

122. It shall be lawful for any survey-officer authorized by a Superintendent of Survey or Settlement-officer, to cause to be constructed or repaired boundary-marks of villages or survey-numbers, whether cultivated or uncultivated, and to assess all charges incurred thereby on the holders or others having an interest therein.

Requisition on landholders to erect or repair boundary-marks.

Such officer may require landholders to construct or repair their boundary-marks, by a notification which shall be posted in the chaunri or other public place in the village, to which the lands under survey belong, directing the holders of survey-numbers to construct or repair, within a specified time, the boundary-marks of their respective survey-numbers, and on their failure to comply with the requisition so made, the survey-officer shall then construct or repair them, and assess all charges incurred thereby as hereinbefore provided.

General notification to be sufficient notice of requisition.

A general notification, issued in the manner aforesaid, shall be held to be good and sufficient notice to each and every person having any interest in any survey-numbers within the limits of the lands to which the survey extends.

Description of boundary-marks.

The size, material and description of boundary-marks shall be such as may be deemed necessary by the Superintendent of Survey, according to the requirements of soil and climate.

Responsibility for maintenance of boundary-marks.

123. Every landholder shall be responsible for the maintenance and good repair of the boundary-marks of his holding, and for any charges reasonably incurred on account of the same by the revenue-officers in cases of alteration, removal or disrepair. It shall be the duty of the village-officers and servants to prevent the destruction or unauthorized alteration of the village-boundary-marks.

Collector to have charge of boundary-marks after introduction of survey-settlement.

124. When the survey-settlement shall have been introduced into a district, the charge of the boundary-marks shall devolve on the Collector, and it shall be his duty to take measures for their maintenance and repair, and for this purpose the powers conferred on survey-officers by section 122 shall vest in him.

Penalty for injuring boundary-marks.

125. Any person convicted, after a summary inquiry before the Collector, or before a survey-officer, Mámlatdár or Mahálkari, of wilfully erasing, removing or injuring a boundary-mark, shall be liable to a fine not exceeding fifty rupees for each mark so erased, removed or injured.

One-half of every fine imposed under this section may be awarded by the officer imposing it to the informer, if any, and the other half shall be chargeable with the cost of restoring the mark.

CHAPTER X.

Of Lands within the Sites of Villages, Towns and Cities.

Fixing of Sites.

Limits of sites of villages, towns and cities how fixed.

126. It shall be lawful for the Collector or for a survey-officer acting under the general or special orders of Government, to determine what lands are included within the site of any village, town or city, and to fix, and from time to time to vary, the limits of the same, respect being had to all subsisting rights of landholders.

Exemption from Land-revenue.

Act XI of 1852 and

127. Act XI of 1852[a] and Bombay Acts II[b] and VII[c] of 1863, shall be

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[a] See *supra*, p. 62. [b] See *supra*, p. 180. [c] See *supra*, p. 220.

deemed to be applicable, and to have always been applicable, in the territories to which they respectively extend, to all lands within the limits of the site of any town or city in which an inquiry into titles has been made under the provisions of Bombay Act IV of 1868,[a] which have been hitherto ordinarily used for agricultural purposes only; but the provisions of the said Act shall not be deemed applicable to any other lands within the limits of the site of any such town or city.

Bombay Acts II and VII of 1863 how far applicable to lands in such sites.

128. The existing exemption from payment of land-revenue of lands other than lands which have hitherto been ordinarily used for purposes of agriculture only, situate within the sites of towns and cities in which an inquiry into titles has been made under the provisions of Bombay Act IV of 1868, shall be continued—

Existing exemption when continued in case of certain lands.

1st.—If such lands are situated in any town or city where there has been in former years a survey which Government recognize for the purpose of this section, and are shown in the maps or other records of such survey as being held wholly or partially exempt from the payment of land-revenue;

2nd.—If such lands have been held wholly or partially exempt from the payment of land-revenue for a period of not less than five years before the application of Bombay Act I of 1865,[b] or IV of 1868 to such town or city;

3rd.—If such lands, for whatever period held, have been held wholly or partially exempt from payment of land-revenue under a deed of grant or of confirmation issued by an officer whom Government recognize as having been competent to issue such deed.

129. Claims to exemption under the last preceding section shall be determined by the Collector after a summary inquiry, and his decision shall be final.

Right to exemption determined by Collector.

130. In towns and cities to which section 128 applies, the holders of any lands other than lands which have hitherto been used for purposes of agriculture only, which have been unauthorizedly occupied for a period commencing less than two years before Bombay Act I of 1865, or IV of 1868 was applied to the town or city in which the said lands are situate, shall be liable to pay the price of the occupancy of the said lands in addition to the land-revenue assessed thereupon.

Occupancy-price payable in addition to assessment, in certain cases

The said occupancy-price shall be determined according to the provisions of section 62.

[a, b] Repealed by this Act, section 2.

Miscellaneous.

Survey of lands in such sites how conducted.

131. If the Governor in Council shall at any time deem it expedient to direct a survey of the lands other than those used ordinarily for the purposes of agriculture only within the site of any village, town or city, under the provisions of section 95, or a fresh survey thereof under the provisions of section 106, such survey shall be conducted, and all its operations shall be regulated, according to the provisions of chapters VIII and IX of this Act:

Proviso.

Provided that nothing contained in sections 96, 97, 101, 103, 104 or 118 thereof shall be considered applicable to any such survey in any town or city containing more than two thousand inhabitants.

In certain cases survey-fee to be charged.

132. When a survey is extended under the provisions of the last preceding section to the site of any town or city containing more than two thousand inhabitants, each holder of a building-site shall be liable to the payment of a survey-fee to be assessed by the Collector under such rules as may be prescribed in this behalf from time to time by Government, provided that the said fee shall in no case exceed rupees five for each survey-number.

The said survey-fee shall be payable within six months from the date of a public notice to be given in this behalf by the Collector after the completion of the survey of the site of the town or city, or of such part thereof as the notice shall refer to.

In any town or city in which Bombay Act IV of 1868 was in force before the passing of this Act, a similar public notice shall be issued by the Collector within six months after the passing of this Act, provided that in any such town or city no survey-fee shall be leviable when a fee has already been paid by a landholder for a sanad obtained by him under section 10 of the said Act.

Sanad to be granted without extra charge.

133. Every holder of a building-site as aforesaid shall be entitled, after payment of the said survey-fee, to receive from the Collector without extra charge one or more sanads, in the form of schedule H, specifying by plan and description the extent and conditions of his holding:

Proviso

Provided that if such holder do not apply for such sanad or sanads at the time of payment of the survey-fee or thereafter within six months from the date of the public notice issued by the Collector under the last preceding section, the Collector may require him to pay an additional fee not exceeding one rupee for each sanad.

Every such sanad shall be executed on behalf of the Secretary of State for India in Council by such officer as may from time to time be lawfully empowered to execute the same.

Assessment of lands hitherto used for purpose of agriculture only, appropriated to other purposes.

134. If any land within the site of any village, town or city, hitherto ordinarily used for agricultural purposes only, with respect to which a summary settlement has been made between Government and the holder under the provisions of any law for the time being in force, be appropriated to any other purposes, it shall be liable to payment of one-eighth of the rate fixed for unalienated land used for similar purposes in the same locality, in addition to the quit-rent payable under the terms of such summary settlement.

Limitation of certain suits.

135. Any suit instituted in a civil Court to set aside any order passed by the Collector under section 37 or 129, in respect of any land situate within the site of a village, town or city, shall be dismissed, although limitation has not been set up as a defence, if it has not been instituted within one year from the date of the order.

CHAPTER XI.

OF THE REALIZATION OF THE LAND-REVENUE AND OTHER REVENUE-DEMANDS.

Responsibility for Land-revenue.

Primary responsibility.

136. The registered occupant shall be primarily responsible to Government for the land-revenue of unalienated land, and the superior holder shall be primarily responsible to Government for the land-revenue of alienated land.

Recovery of land-revenue if person primarily responsible fails to pay it.

On failure of the person primarily responsible to Government for the land-revenue to pay the same according to the rules legally prescribed in that behalf, it may be recovered from the co-occupant of unalienated land or the co-sharer of alienated land, or in either case from the inferior holder or person in actual occupation of the land.

Credit allowed to inferior holder for recoveries made from him.

When land-revenue is recovered from any such co-occupant, co-sharer, inferior holder or other person, he shall be allowed credit for all payments which he may have made to the registered occupant or superior holder, or to his landlord, at or after the prescribed or usual times of such payments, and he shall be entitled to credit in account with the registered occupant or superior holder or with his landlord for the amount recovered from him.

Priority of Government Claim for Land-revenue.

Claims of Government to have precedence over all others.

137. The claim of Government to any moneys recoverable under the provisions of this chapter shall have precedence over any other debt, demand or claim whatsoever, whether in respect of mortgage, judgment-decree, execution or attachment, or otherwise howsoever, against any land or the holder thereof.

Liability of crop for revenue of land.

138. In all cases the land-revenue for the current year, of land used for agricultural purposes, if not otherwise discharged, shall be recoverable, in preference to all other claims, from the crop of the land subject to the same.

Land-revenue when leviable.

Land-revenue may be levied at any time during revenue-year.

139. The land-revenue shall be leviable on or at any time after the first day of the revenue-year for which it is due; but, except when precautionary measures are deemed necessary under the provisions of sections 140 to 144, payment will be required only on the dates to be fixed under the provisions hereinafter contained.

Precautionary Measures for the Security of the Land-revenue.

Removal of crop which has been sold, &c., may be prevented until revenue paid.

140. When the crop of any land or any portion of the same is sold, mortgaged or otherwise disposed of, whether by order of a civil Court or other public authority, or by private agreement, the Collector may prevent its being removed from the land until the current year's revenue of the said land has been paid, whether the date fixed for the payment of the same, under the provisions hereinafter contained, has yet arrived or not.

But in no case shall a crop, or any portion of the same, which has been sold, mortgaged or otherwise disposed of, be detained on account of more than one year's revenue.

To secure land-revenue, Collector may prevent reaping of crop, or

141. It shall be lawful for the Collector, in order to secure the payment of the land-revenue by enforcement of the lien of Government on the crop—

(*a*) to require that the crop growing on any land liable to the payment of land-revenue shall not be reaped until a notice in writing has first been given to himself or to some other officer to be named by him in this behalf, and such notice has been returned endorsed with an acknowledgment of its receipt;

removal thereof, or

(*b*) to direct that no such crop shall be removed from the land on which it has been reaped, or from any place in which it may have been deposited, without the written permission of himself or of some other officer as aforesaid;

place watchmen over it.

(*c*) to cause watchmen to be placed over any such crop to prevent the unlawful reaping or removal of the same, and to realize the amount required for the remuneration of the said watchmen, at such rate not exceeding the rate of pay received by the peons on his establishment as he may deem fit, as an arrear of land-revenue due in respect of the land to which such crop belongs.

Collector's orders under last section how made known

142. The Collector's orders under either clause (*a*) or clause (*b*) of the last preceding section may be issued generally to all the holders of land paying revenue to Government in a village, or to individual holders merely.

If the order be general, it shall be made known by public proclamation to be made by beat of drum in the village and by affixing a copy of the order in the chaunri or some other public building in the village.

If it be to individual holders, a notice thereof shall be served on each holder concerned.

Any person who shall disobey any such order after the same has been so proclaimed, or a notice thereof has been served upon him, or who shall, within the meaning of the Indian Penal Code, abet the disobedience of any such order, shall be liable, on conviction after a summary inquiry by the Collector, to a fine not exceeding double the amount of the land-revenue due on the land to which the crop belongs in respect of which the offence is committed. Penalty for disobedience of order.

143. The Collector shall not defer the reaping of the crop, nor prolong its deposit, unduly, so as to damage the produce; and if within two months after the crop has been deposited the revenue due has not been discharged, he shall either release the crop and proceed to realize the revenue in any other manner authorized by this chapter, or take such portion thereof as he may deem fit, for sale under the provisions of this chapter applicable to sales of moveable property in realization of the revenue due and of all legal costs, and release the rest. Reaping, &c., not to be unduly deferred. Crop when to be released.

144. If, owing to disputes amongst the sharers, or for other cause, the Collector shall deem that there is reason to apprehend that the land-revenue payable in respect of any holding consisting of an entire village or of a share of a village will not be paid as it falls due, he may cause the village or share of a village to be attached and taken under the management of himself or any agent whom he appoints for that purpose. Temporary attachment and management of village or share of village.

The provisions of section 160 shall apply to any village or share of a village so attached, and all surplus-profits of the land attached, beyond the cost of such attachment and management, including the payments of the land-revenue and the cost of the introduction of a revenue-survey, if the same be introduced under the provisions of section 111, shall be kept in deposit for the eventual benefit of the person or persons entitled to the same, or paid to the said person or persons from time to time as the Collector, subject to the orders of the Commissioner, may direct. Powers of manager, and disposal of surplus-profits.

145. The precautionary measures authorized by the last five sections shall be relinquished if the person primarily responsible for the payment of revenue, or any person who would be responsible for the same if default were made by the person primarily responsible, shall pay the costs, if any, lawfully incurred by the Collector up to the time of such relinquishment, and shall furnish security satisfactory to the Collector for the payment of the revenue, at the time at which, or in the instalments, if any, in which, it is payable under the provisions hereinafter contained. Precautionary measures to be relinquished on security being furnished.

Regulation of Payment of Land-revenue.

146. Land-revenue, except when it is recovered under the provisions of the foregoing sections 140 to 144, shall be payable at such times, in such Government to determine dates, &c., on

which land revenue shall be payable.

instalments, to such persons and at such places as may from time to time be determined by the orders of Government.

Defaulters.

Arrear

Defaulters.

147. Any sum not so paid becomes thereupon an arrear of land-revenue; and the persons responsible for it, whether under the provisions of section 136 or of any other section, become defaulters.

Liabilities incurred by default

148. If any instalment of land-revenue be not fully paid within the prescribed time, it shall be lawful for the Collector to proceed to levy at once the entire balance of land-revenue due by the defaulter for the current year, in addition to such charge as a penalty or by way of interest, as may be authorized according to a scale to be fixed from time to time, under the orders of the Governor in Council.

Certified account to be evidence as to arrears.

149. A statement of account, certified by the Collector or by an Assistant or Deputy Collector shall, for the purposes of this chapter, be conclusive evidence of the existence of the arrear, of the amount of land-revenue due, and of the person who is the defaulter.

Collectors may realize each other's demands.

On receipt of such certified statement, it shall be lawful for the Collector of one district to proceed to recover the demands of the Collector of any other district under the provisions of this chapter as if the demand arose in his own district.

A similar statement of account, certified by the Collector of Bombay, may be proceeded upon as if certified by the Collector of a district under this Act.

Recovery of Arrears.

Process for recovery of arrears.

150. An arrear of land-revenue may be recovered by the following processes :—

(*a*) by serving a written notice of demand on the defaulter, under section 152;

(*b*) by forfeiture of the occupancy or alienated holding in respect of which the arrear is due, under section 153;

(*c*) by distraint and sale of the defaulter's moveable property, under section 154;

(*d*) by sale of the defaulter's immoveable property, under section 155;

(*e*) by arrest and imprisonment of the defaulter, under sections 157 and 158;

(*f*) in the case of alienated holdings consisting of entire villages, or shares of villages, by attachment of the said villages, or shares of villages, under sections 159 to 163.

Revenue.

151. The said processes may be employed for the recovery of arrears of

former years as well as of the current year, but the preferences given by sections 137 and 138 shall apply only to demands for the current year : demands of former years how recoverable.

Provided that any process commenced in the current year shall be entitled to the said preferences, notwithstanding that it may not be fully executed within that year. Proviso.

Notice of Demand.

152. A notice of demand may be issued on or after the day following that on which the arrear accrues. When notice of demand may issue.

The Commissioner may from time to time frame rules for the issue of such notices, and with the sanction of the Governor in Council shall fix the costs recoverable from the defaulter as an arrear of revenue, and direct by what officer such notices shall be issued.

Forfeiture of Occupancy or alienated Holding.

153. The Collector may declare the occupancy or alienated holding in respect of which an arrear of land-revenue is due to be forfeited to Government, and sell or otherwise dispose of the same under the provisions of sections 56 and 57, and credit the proceeds, if any, to the defaulter's accounts. Occupancy or alienated holding for which arrear is due may be forfeited.

Sale of Defaulter's Property.

154. The Collector may also cause the defaulter's moveable property to be distrained and sold. Distraint and sale of defaulter's moveable property.

Such distraints shall be made by such officers or class of officers as the Commissioner under the orders of Government may from time to time direct. By whom to be made.

155. The Collector may also cause the right, title and interest of the defaulter in any immoveable property other than the land on which the arrear is due to be sold. Sale of defaulter's immoveable property.

156. All such property as is by the Civil Procedure Code exempted from attachment or sale in execution of a decree, shall also be exempt from distraint or sale under either of the last two preceding sections. Exemption from distraint and sale.

The Collector's decision as to what property is so entitled to exemption shall be conclusive.

Arrest and Imprisonment.

157. At any time after an arrear becomes due, the defaulter may be arrested and detained in custody for ten days in the office of the Collector or of a Mámlatdár or Mahálkari, unless the revenue due, together with the penalty or interest and the costs of arrest and of notice of demand, if any, have issued, and the cost of his subsistence during detention, is sooner paid. Arrest and detention of defaulter.

Imprisonment in civil jail.

If, on the expiry of ten days, the amount due by the defaulter is not paid, then, or if the Collector deem fit on any earlier day, he may be sent by the Collector with a warrant, in the form of schedule C, for imprisonment in the civil jail of the district:

Limit to detention of defaulters.

Provided that no defaulter shall be detained in imprisonment for a longer period than the time limited by law in the case of the execution of a decree of a civil court for a debt equal in amount to the arrear of revenue due by such defaulter.

Power to declare by whom power of arrest to be exercised.

158. The Commissioner may, with the sanction of the Governor in Council, from time to time declare by what officers, or class of officers, the powers of arrest conferred by section 157 may be exercised, and also fix the costs of arrest and the amount of subsistence-money to be paid by Government to any defaulter under detention or imprisonment.

Attachment of Villages.

Power to attach defaulter's village, and take it under management.

159. If the holding in respect of which an arrear is due consists of an entire village or of a share of a village, and the adoption of any of the other processes before specified is deemed inexpedient, the Collector may, with the previous sanction of the Commissioner, cause such village or share of a village to be attached and taken under the management of himself or any agent whom he appoints for that purpose.

Lands of such village to revert free of incumbrances.

160. The lands of any village or share of a village so attached shall revert to Government unaffected by the acts of the superior holder or of any of the sharers, or by any charges or liabilities subsisting against such lands, or against such superior holder or sharers as are interested therein, so far as the public revenue is concerned, but without prejudice in other respects to the rights of individuals;

Powers of manager.

and the Collector or the agent so appointed shall be entitled to manage the lands attached, and to receive all rents and profits accruing therefrom to the exclusion of the superior holder or any of the sharers thereof, until the Collector restores the said superior holder to the management thereof.

Application of surplus-profits.

161. All surplus-profits of the land attached, beyond the cost of such attachment and management, including the payment of the current revenue and the cost of the introduction of a revenue-survey, if the same be introduced under the provisions of section 111 of this Act, shall be applied in defraying the said arrear.

Restoration of village so attached.

162. The village or share of a village so attached shall be released from attachment, and the management thereof shall be restored to the superior holder on the said superior holder's making an application to the Collector for

that purpose at any time within twelve years from the first of August next after the attachment:

if at the time that such application is made it shall appear that the arrear has been liquidated;

or if the said superior holder shall be willing to pay the balance, if any, still due by him, and shall do so within such period as the Collector may prescribe in that behalf.

Disposal of surplus-receipts.

The Collector shall make over to the superior holder the surplus-receipts, if any, which have accrued in the year in which his application for restoration of the village or share of a village is made after defraying all arrears and costs; but such surplus-receipts, if any, of previous years shall be at the disposal of Government.

Village, &c., to vest in Government, if not redeemed within twelve years.

163. If no application be made for the restoration of a village or portion of a village so attached within the said period of twelve years, or if, after such application has been made, the superior holder shall fail to pay the balance, if any, still due by him within the period prescribed by the Collector in this behalf, the said village or portion of a village shall thenceforward vest in Government free from all incumbrances created by the superior holder or any of the sharers or any of his or their predecessors in title, or in anywise subsisting as against such superior holder or any of the sharers, but without prejudice to the rights of the actual occupants of the soil.

Stay of Proceedings.

Processes to be stayed on security being given.

164. Any defaulter detained in custody or imprisoned, shall forthwith be set at liberty, and the execution of any process shall, at any time, be stayed, on the defaulter's giving before the Collector or other person nominated by him for the purpose, or if the defaulter is in jail, before the officer in charge of such jail, security in the form of schedule D, satisfactory to the Collector or to such other person or officer.

Or on amount demanded being paid under protest.

And any person against whom proceedings are taken under this chapter may pay the amount claimed under protest to the officer taking such proceedings, and upon such payment the proceedings shall be stayed.

Procedure in respect of Sales.

Procedure in effecting sales.

165. When any sale of either moveable or immoveable property is ordered under the provisions of this chapter, the Collector shall issue a proclamation, in the vernacular language of the district, of the intended sale, specifying the time and place of sale, and in the case of moveable property, whether the sale is subject to confirmation or not, and, when land paying revenue to Government is to be sold, the revenue assessed upon it, together with any other particulars he may think necessary.

Proclamation of sales

Such proclamation shall be made by beat of drum at the head-quarters of the taluqa, and in the village in which the immoveable property is situate, if the sale be of immoveable property; if the sale be of moveable property the proclamation shall be made in the village in which such property was seized, and in such other places as the Collector may direct.

Notification of sales.

166. A written notice of the intended sale of immoveable property, and of the time and place thereof, shall be affixed in each of the following places, namely, the office of the Collector of the district, the office of the Mámlatdár or Mahálkari of the taluqa or mahál in which the immoveable property is situate, the chávdi or some other public building in the village in which it is situate, and the defaulter's dwelling-place.

In the case of moveable property, the written notice shall be affixed in the Mámlatdár's or Mahálkari's office, and in the chávdi or some other public building in the village in which such property was seized.

The Collector may also cause notice of any sale, whether of moveable or immoveable property, to be published in any other manner that he may deem fit.

Sale by whom to be made.

167. Sales shall be made by auction by such persons as the Collector may direct.

Time when sale may be made.

No such sale shall take place on a Sunday or other general holiday recognized by Government nor until after the expiration of at least thirty days in the case of immoveable property, or seven days in the case of moveable property, from the latest date on which any of the said notices shall have been affixed as required by the last preceding section.

Postponement of sale.

The sale may from time to time be postponed for any sufficient reason.

Sale of perishable articles.

168. Nothing in the last three sections applies to the sale of perishable articles. Such articles shall be sold by auction with the least possible delay, in accordance with such orders as may from time to time be made by the Collector either generally or specially in that behalf.

When sale may be stayed.

169. If the defaulter, or any person on his behalf, pay the arrear in respect of which the property is to be sold and all other charges legally due by him at any time before the day fixed for the sale, to the person appointed under section 146 to receive payment of the land-revenue due, or to the officer appointed to conduct the sale, or if he furnish security under section 164, the sale shall be stayed.

Sales of moveable property when liable to confirmation.

170. Sales of perishable articles shall be at once finally concluded by the officer conducting such sales. All other sales of moveable property shall be finally concluded by the officer conducting such sales, or shall be subject to confirmation, as may be directed in orders to be made by the Collector either generally or specially in that behalf.

In the case of sales made subject to confirmation, the Collector shall direct by who such sales may be confirmed

Mode of payment for moveable property when sale is concluded at once

171 When the sale is finally concluded by the officer conducting the same, the price of every lot shall be paid for at the time of sale, or as soon after as the said officer shall direct, and in default of such payment, the property shall forthwith be again put up and sold

On payment of the purchase-money, the officer holding the sale shall grant a receipt for the same, and the sale shall become absolute as against all persons whomsoever

Payment when sale is subject to confirmation

172 When the sale is subject to confirmation, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five per centum on the amount of his bid, and in default of such deposit, the property shall forthwith be again put up and sold

The full amount of purchase-money shall be paid by the purchaser before sunset of the day after he is informed of the sale having been confirmed, or, if the said day be a Sunday or other authorized holiday, then before sunset of the first office-day after such day

On payment of such full amount of the purchase-money, the purchaser shall be granted a receipt for the same, and the sale shall become absolute as against all persons whomsoever

Deposit by purchaser in case of sale of immoveable property.

173. In all cases of sale of immoveable property, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five per centum on the amount of his bid, and in default of such deposit, the property shall forthwith be again put up and sold

Purchase money when to be paid.

174. The full amount of purchase-money shall be paid by the purchaser before sunset of the fifteenth day from that on which the sale of the immoveable property took place, or, if the said fifteenth day be a Sunday or other authorized holiday, then before sunset of the first office-day after such fifteenth day

Effect of default

175. In default of payment within the prescribed period of the full amount of purchase-money, whether of moveable or immoveable property, the deposit, after defraying thereout the expenses of the sale, shall be forfeited to Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may be subsequently sold.

Liability of purchaser for loss by re sale

176. If the proceeds of the sale which is eventually made be less than the price bid by such defaulting purchaser, the difference shall be recoverable from him by the Collector as an arrear of land-revenue

Notification before re sale

177. Every re-sale of property in default of payment of the purchase-money, or after postponement of the first sale, shall, except when such re-sale

takes place forthwith, be made after the issue of a fresh notice in the manner prescribed for original sales.

Application to set aside sale.

178. At any time within thirty days from the date of the sale of immoveable property, application may be made to the Collector to set aside the sale on the ground of some material irregularity or mistake, or fraud, in publishing or conducting it;

but except as otherwise is provided in the next following section, no sale shall be set aside on the ground of any such irregularity or mistake, unless the applicant proves to the satisfaction of the Collector that he has sustained substantial injury by reason thereof.

If the application be allowed, the Collector shall set aside the sale, and direct a fresh one.

Order confirming or setting aside sale.

179. On the expiration of thirty days from the date of the sale, if no such application as is mentioned in the last preceding section has been made, or if such application has been made and rejected, the Collector shall make an order confirming the sale: provided that, if he shall have reason to think that the sale ought to be set aside notwithstanding that no such application has been made, or on grounds other than those alleged in any application which has been made and rejected, he may, after recording his reasons in writing, set aside the sale.

Refund of deposit or purchase-money when sale set aside.

180. Whenever the sale of any property is not confirmed, or is set aside, the purchaser shall be entitled to receive back his deposit or his purchase-money, as the case may be.

On confirmation of sale, purchaser to be put in possession.

181. After a sale of any occupancy or alienated holding has been confirmed in manner aforesaid, the Collector shall put the person declared to be the purchaser into possession of the land included in such occupancy or alienated holding, and shall cause his name to be entered in the revenue-records as occupant or holder in lieu of that of the defaulter, and shall grant him a certificate to the effect that he has purchased the occupancy or alienated holding to which the certificate refers.

Certificate of purchase.

Bar of suit against certified purchaser.

182. The certificate shall state the name of the person declared at the time of sale to be the actual purchaser; and any suit brought in a civil court against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed.

Application of proceeds of sale.

183. When any sale of moveable property under this chapter has become absolute, and when any sale of immoveable property has been confirmed, the proceeds of the sale shall be applied to defraying the expenses of the sale and to the payment of any arrears due by the defaulter at the date of the confirmation of such sale, and recoverable as an arrear of land-revenue,

and the surplus (if any) shall be paid to the person whose property has been sold

The expenses of the sale shall be estimated at such rates and according to such rules as may from time to time be sanctioned by the Commissioner under the orders of Government

Expenses of sale how calculated

184. The said surplus shall not, except under an order of a civil court, be payable to any creditor of the person whose property has been sold

Payment of surplus to creditors

185 The person named in the certificate of title as purchaser of any land shall be liable for all instalments of land-revenue becoming due in respect of such land subsequently to the date of the sale

Liability of purchaser for revenue

186 If any claim shall be set up by a third person to moveable property attached under the provisions of this chapter, the Collector shall admit or reject his claim on a summary inquiry held after reasonable notice.

Claims to attached moveable property how disposed of

If the claim be admitted wholly or partly, the property shall be dealt with accordingly

Except in so far as it is admitted, the property shall be sold and the title of the purchaser shall be good for all purposes, and the proceeds shall be disposable as hereinbefore directed

Application of the Provisions of this Chapter

187 All sums due on account of land-revenue, all quit-rents, nazránás, succession-duties, transfer-duties and forfeitures, and all cesses, profits from land, emoluments, fees, charges, penalties, fines and costs payable or leviable under this Act or under any Act or Regulation hereby repealed, or under any Act for the time being in force relating to land-revenue,

What moneys leviable under provisions of chapter.

and all moneys due by any contractor for the farm of customs duties, or of any other duty or tax, or of any other item of revenue whatsoever, and all specific pecuniary penalties to which any such contractor renders himself liable under the terms of his agreement,

and also all sums declared by this or by any other Act or Regulation at the time being in force to be leviable as an assessment, or as a revenue-demand, or as an arrear of land-revenue,

shall be levied under the foregoing provisions of this chapter

And all persons who may have become sureties under any of the provisions of this Act or of any Act or Regulation hereby repealed, or for any such contractor as aforesaid for any sum of money shall, on failure to pay the amount or any portion thereof for which they may have become liable under the terms of their security-bond, be liable to be proceeded against under the provisions of this chapter as revenue-defaulters

Sureties liable as revenue defaulters

And in the event of the resumption of any such farm as is aforesaid, no

On resump-

tion of farm, no payments to contractor in advance admitted.

person shall be entitled to credit for any payments which he may have made to the contractor in anticipation.

CHAPTER XII.

Procedure of Revenue-officers.

Subordination of revenue-officers.

188. In all official acts and proceedings a revenue-officer shall, in the absence of any express provision of law to the contrary, be subject as to the place, time and manner of performing his duties to the direction and control of the officer to whom he is subordinate.

Power to summon persons to give evidence and produce documents.

189. Every revenue-officer not lower in rank than a Mámlatdár's first kárkun, or an Assistant Superintendent of Survey, in their respective departments, shall have power to summon any person whose attendance he considers necessary either to be examined as a party, or to give evidence as a witness, or to produce documents for the purposes of any inquiry which such officer is legally empowered to make.

A summons to produce documents may be for the production of certain specified documents, or for the production of all documents of a certain description in the possession of the person summoned.

All persons so summoned shall be bound to attend, either in person or by an authorized agent, as such officer may direct: provided that exemptions under sections 640 and 641 of the Code of Civil Procedure shall be applicable to requisitions for attendance under this section;

and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements,

and to produce such documents and other things as may be required.

Summons to be in writing, signed and sealed.

190. Every summons shall be in writing, in duplicate, and shall state the purpose for which it is issued, and shall be signed by the officer issuing it, and if he have a seal shall also bear his seal;

How to be served.

and shall be served by tendering or delivering a copy of it to the person summoned, or, if he cannot be found, by affixing a copy of it to some conspicuous part of his usual residence.

Service in district other than that of issuer.

If his usual residence be in another district, the summons may be sent by post to the Collector of that district, who shall cause it to be served in accordance with the preceding clause of this section.

Mode of serving notices.

191. Every notice under this Act, unless it is otherwise expressly provided, shall be served either by tendering or delivering a copy thereof to the person on whom it is to be served or to his agent, if he have any;

or by affixing a copy thereof to some conspicuous place on the land, if any, to which such notice refers.

No such notice shall be deemed void on account of any error in the name or designation of any person referred to therein, unless when such error has produced substantial injustice. Notice not void for error.

192. In any formal or summary inquiry if any party desires the attendance of witnesses, he shall follow the procedure prescribed by the Code of Civil Procedure, section 160. Procedure for procuring attendance of witnesses.

Formal Inquiry.

193. In all formal inquiries the evidence shall be taken down in full, in writing, in the language in ordinary use in the district, by, or in the presence and hearing and under the personal superintendence and direction of, the officer making the investigation or inquiry and shall be signed by him. Mode of taking evidence in formal inquiries.

In cases in which the evidence is not taken down in full in writing by the officer making the inquiry, he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes; and such memorandum shall be written and signed by such officer with his own hand, and shall form part of the record.

If such officer is prevented from making a memorandum as above required, he shall record the reason of his inability to do so.

When the evidence is given in English, such officer may take it down in that language with his own hand, and an authenticated translation of the same in the language in ordinary use in the district shall be made and shall form part of the record. Taking evidence given in English. Translation to be on record.

194. Every decision, after a formal inquiry, shall be written by the officer passing the same in his own hand-writing, and shall contain a full statement of the grounds on which it is passed. Writing and explanation of decisions.

Summary Inquiry.

195. In summary inquiries the presiding officer shall himself, as any such inquiry proceeds, record a minute of the proceedings in his own hand in English or in the language of the district, embracing the material averments made by the parties interested, the material parts of the evidence, the decision, and the reasons for the same: Summary inquiries how conducted.

Provided that it shall at any time be lawful for such officer to conduct an inquiry directed by this Act to be summary under all or any of the rules applicable to a formal inquiry, if he deem fit.

196. A formal or summary inquiry under this Act shall be deemed to be a "judicial proceeding" within the meaning of sections 193, 219 and 228 of the Indian Penal Code, and the office of any authority holding a formal or summary inquiry shall be deemed a civil Court for the purposes of such inquiry. Formal and summary inquiries to be deemed judicial proceedings.

Hearing and decision. Notice to parties.

Every hearing and decision, whether in a formal or summary inquiry, shall be in public, and the parties or their authorized agents shall have due notice to attend.

Ordinary inquiries how conducted.

197. An inquiry which this Act does not require to be either formal or summary, or which any revenue-officer may on any occasion deem to be necessary to make, in the execution of his lawful duties, shall be conducted according to such rules applicable thereto, whether general or special, as may have been prescribed by the Governor in Council, or an authority superior to the officer conducting such inquiry, and, except in so far as controlled by such rules, according to the discretion of the officer in such way as may seem best calculated for the ascertainment of all essential facts and the furtherance of the public good.

Copies and translations, &c., how obtained.

198. In all cases in which a formal or summary inquiry is made, authenticated copies and translations of decisions, orders, and the reasons therefor, and of exhibits, shall be furnished to the parties, and original documents used as evidence shall be restored to the persons who produced them, or to persons claiming under them on due application being made for the same, subject to such charges for copying, &c., as may, from time to time, be authorized by Government.

Arrest of defaulter to be made upon warrant.

199. Whenever it is provided by this Act that a defaulter or any other person may be arrested, such arrest shall be made upon a warrant issued by any officer competent to direct such person's arrest.

Power of revenue-officer to enter upon lands or premises for purposes of measurement, &c.

200. It shall be lawful for any revenue-officer at any time, and from time to time, to enter, when necessary, for the purposes of measurement, fixing or inspecting boundaries, classification of soil, or assessment, or for any other purpose connected with the lawful exercise of his office under the provisions of this Act, or of any other law for the time being in force relating to land-revenue, any lands or premises, whether belonging to Government or to private individuals, and whether fully assessed to the land-revenue or partially or wholly exempt from the same:

Proviso.

Provided always, that no building used as a human dwelling shall be entered, unless with the consent of the occupier thereof, without a notice having been served at the said building not less than seven days before such entry; and provided also that, in the cases of buildings of all descriptions, due regard shall be paid to the social and religious prejudices of the occupiers.

Power to determine language of district

201. The Governor in Council may declare what shall, for the purposes of this Act, be deemed to be the language in ordinary use in any district.

Mode of evicting person

202. Whenever it is provided by this or by any other Act for the time being in force, that the Collector may or shall evict any person wrongfully

in possession of land, such eviction shall be made in the following manner, namely:— wrongfully in possession of land.

by serving a notice on the person or persons in possession, requiring them within such time as may appear reasonable after receipt of the said notice to vacate the land, and,

if such notice is not obeyed, by removing or deputing a subordinate to remove any person who may refuse to vacate the same, and

if the officer removing any such person shall be resisted or obstructed by any person, the Collector shall hold a summary inquiry into the facts of the case, and if satisfied that the resistance or obstruction was without any just cause, and that such resistance and obstruction still continue, may, without prejudice to any proceedings to which such person may be liable under any law for the time being in force for the punishment of such resistance or obstruction, issue a warrant for the arrest of the said person, and on his appearance commit him to close custody in the office of the Collector or of any Mámlatdár or Mahálkari, or send him with a warrant, in the form of schedule I, for imprisonment in the civil jail of the district, for such period not exceeding thirty days as may be necessary to prevent the continuance of such obstruction or resistance.

CHAPTER XIII.

Appeals and Revision.

203. In the absence of any express provision of this Act, or of any law for the time being in force to the contrary, an appeal shall lie from any decision or order passed by a revenue-officer under this Act or any other law for the time being in force, to that officer's immediate superior, whether such decision or order may itself have been passed on appeal from a subordinate officer's decision or order or not. Appeal from order passed by revenue-officer to his superior.

204. An appeal shall lie to the Governor in Council from any decision or order passed by a Commissioner or by a Survey Commissioner, except in the case of any decision or order passed by such officer on appeal from a decision or order itself recorded in appeal by any officer subordinate to him. Appeal to Governor in Council.

205. No appeal shall be brought after the expiration of sixty days if the decision or order complained of have been passed by an officer inferior in rank to a Collector or a Superintendent of Survey in their respective departments; nor after the expiration of ninety days in any other case. Limitation of appeals.

In computing the above periods, the time required to prepare a copy of the decision or order appealed against shall be excluded.

Admission of appeal after period of limitation.

206. Any appeal under this chapter may be admitted after the period of limitation prescribed therefor, when the appellant satisfies the officer or the Governor in Council to whom he appeals that he had sufficient cause for not presenting the appeal within such period.

No appeal shall lie against an order passed under this section admitting an appeal.

Provision where last day for appeal falls on Sunday or holiday.

207. Whenever the last day of any period provided in this chapter for the presentation of an appeal falls on a Sunday or other holiday recognized by Government, the day next following the close of the holiday shall be deemed to be such last day.

What to accompany petition of appeal.

208. Every petition of appeal shall be accompanied by the decision or order appealed against or by an authenticated copy of the same.

Powers of appellate authority.

209. The appellate authority may either annul, reverse, modify or confirm the decision or order of the subordinate officer appealed against, or he may direct the subordinate officer to make such further investigation or to take such additional evidence as he may think necessary, or he may himself take such additional evidence.

Power to suspend execution of order of subordinate officer.

210. In any case in which an appeal lies, the appellate authority may, pending decision of the appeal, direct the execution of the decision or order of the subordinate officer to be suspended.

Power to call for and examine records and proceedings of subordinate officers.

211. The Governor in Council and any revenue-officer, not inferior in rank to a Collector or a Superintendent of Survey, in their respective departments, may call for and examine the record of any inquiry or the proceedings of any subordinate revenue-officer, for the purpose of satisfying himself as to the legality or propriety of any decision or order passed, and as to the regularity of the proceedings of such officer.

The following officers may in the same manner call for and examine the proceedings of any officer subordinate to them in any matter in which neither a formal nor a summary inquiry has been held, namely—an Assistant or Deputy Collector, a Mámlatdár, a Mahálkari, and Assistant Superintendent of Survey, and an Assistant Settlement-officer.

And to pass orders thereupon.

If, in any case, it shall appear to the Governor in Council, or to such officer aforesaid, that any decision or order or proceedings so called for should be modified, annulled or reversed, he may pass such order thereon as he deems fit.

Explanation as to decisions or orders expressly made final.

212. Wherever in this Act it is declared that a decision or order shall be final, such expression shall be deemed to mean that no appeal lies from such decision or order.

The Governor in Council alone shall be competent to modify, annul or reverse any such decision or order under the provisions of the last preceding section.

CHAPTER XIV.

MISCELLANEOUS.

Maps, land-registers and village-accounts, &c., open to inspection. Extracts and copies to be given.

213. Subject to such rules and the payment of such fees as the Governor in Council may from time to time prescribe in this behalf, all maps and survey-records, and all village-accounts and land-registers shall be open to the inspection of the public at reasonable hours, and certified extracts from such maps, registers and accounts, or certified copies thereof, shall be given to all persons applying for the same.

Power to frame rules.

214. The Governor in Council may from time to time make, and from time to time vary or rescind, rules or orders not inconsistent with this Act—

(*a*) determining the qualifications to be required of all members of establishments appointed under section 21;

(*b*) regulating the power of fining, reducing, suspending and dismissing revenue-officers under section 32;

(*c*) prescribing the purposes to which land liable to the payment of land-revenue may be appropriated under section 48;

(*d*) regulating the system and manner of assessing land to the land-revenue under sections 52 and 100;

(*e*) for the disposal of forfeited occupancies or alienated holdings under section 56;

(*f*) fixing the maximum amount of fine leviable under section 61 when land which has been unauthorizedly occupied is appropriated to any non-agricultural purpose;

(*g*) for the administration of any survey-settlement;

(*h*) prescribing the mode, form and manner in which appeals under chapter XIII of this Act shall be drawn up and presented;

(*i*) generally for the guidance of all persons in matters connected with the enforcement of this Act, or in cases not expressly provided for therein.

Rules or orders made under any of the above clauses (*c*), (*d*), (*e*), (*f*) or (*i*), may be made either generally or in any particular instance.

Rules to be published.

215. All general rules or orders made by the Governor in Council under the last preceding section shall be published, and when published shall, until cancelled or amended, have the force of law.

Power to provide for penalties.

It shall be lawful for the Governor in Council, in making any such general rule, to attach to the breach of it, in addition to any other consequences which would ensue from such breach, a punishment, on conviction before a Magistrate, not exceeding one month's imprisonment of either description, within the meaning of the Indian Penal Code, or five hundred rupees fine, or both.

Chapters VIII

216. Save as is otherwise provided in section 111 and hereinafter in this

to X how far applicable to alienated villages.

section, the provisions of chapters VIII to X of this Act shall not be applied to any alienated village except for the purposes of fixing the boundaries of any such village, and of determining any disputes relating thereto. But the provisions of the said chapter shall be applicable to—

(*a*) all unalienated lands situated within the limits of an alienated village;

(*b*) villages of which a definite share is alienated, but of which the remaining share is unalienated;

(*c*) alienated villages the holders of which are entitled to a certain amount of the revenue, but of which the excess, if any, above such amount, belongs to Government.

But it shall be lawful for the Governor in Council, on an application in writing being made by the holder of any such village to that effect, to authorize the extension of all or any of the provisions of the said chapters to any such village.

Occupants in alienated villages.

217. When a survey-settlement has been introduced, under the provisions of the last section or of any law for the time being in force, into an alienated village, the holders of all lands to which such settlement extends shall have the same rights and be affected by the same responsibilities in respect of the lands in their occupation as occupants in unalienated villages have, or are affected by, under the provisions of this Act, and all the provisions of this Act relating to occupants and registered occupants shall be applicable, so far as may be, to them.

Construction of Act.

218. Nothing in this Act, which applies in terms to unalienated land or to the holders of unalienated land only, shall be deemed to affect alienated land, or the rights of holders of alienated land, or of Government, in respect of any such land, and no presumption shall be deemed to arise either in favour, or to the prejudice, of any holder of alienated land from any provision of this Act in terms relating to unalienated land only.

SCHEDULE A.

(*See section 2*).

Number and year.	Subject.	Extent of repeal.
	BOMBAY REGULATIONS.	
IV of 1827..	Forms of proceeding of the Courts of Law.	Clauses 2 & 3 of section 69.
XVI of 1827.	Duties and powers of the Collector and subordinate Revenue-officers.	So much as has not already been repealed.

Number and year.	Subject.	Extent of repeal.
	BOMBAY REGULATIONS—*continued.*	
XVII of 1827	Assessment and realizations of the Land-revenue.	So much as has not already been repealed.
V of 1830 ...	Revenue Commissioners and Sub-Collectors.	Ditto.
XV of 1831..	Punishment of Pátels falsifying revenue-records.	Ditto.
II of 1832 ...	Realization of Revenue from Farmers ..	Ditto.
V of 1833 ...	Embezzlement. Hereditary District and Village-officers.	Ditto.
	ACTS OF THE GOVERNOR GENERAL IN COUNCIL.	
XVIII of 1838	Security	The whole Act.
XIII of 1842.	Collection of Inámdárs' Revenues .	Ditto.
XVII of 1842.	Revenue Commissioners	So much as has not already been repealed.
III of 1846 .	Boundary-marks	Ditto.
XII of 1850. .	Public accountants	The whole Act so far as it applies to revenue-officers in the Presidency of Bombay.
XXI of 1852.	Deputy Collectors	So much as has not already been repealed.
	ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL.	
VII of 1863	Summary Settlement	Sections 4 & 5.
I of 1865 ..	Survey	The whole Act, except sections 37 & 38.
I of 1866 ...	Extending Bombay Act I of 1865 ...	The whole Act.
I of 1868 ...	Powers and Duties of Assistant and Deputy Collectors.	Ditto.
IV of 1868 ...	City Surveys	Ditto.
I of 1875 ...	Amendment of (Bombay) Act I of 1865...	Ditto.

SCHEDULE B.

FORM OF BOND TO BE REQUIRED UNDER SECTION 23.

WHEREAS I,

inhabitant of

have been appointed to the office of

and have been called upon to furnish security under the provisions of section 23 of the Bombay Land Revenue Code for the due discharge of the trusts of the said office, or of any other office to which I may be hereafter appointed, and for the due account of all moneys, papers and other property which shall come into my possession or control by reason of any such office, I hereby bind myself to pay to the Secretary of State for India in Council, the amount of any loss or defalcation in my accounts, and to deliver up any papers or other property, within such time, and to such person, as shall be demanded by the person at the head of the office to which I belong, such demand to be in writing and to be left at my office or place of residence, and in case of my making default therein, I bind myself to forfeit to the Secretary of State for India in Council the sum of rupees.

Dated

(*Signature*)

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

We

hereby declare ourselves sureties for the abovesaid ,
that he shall do and perform all that he has above undertaken to do and perform, and in case of his making default therein, we hereby bind ourselves to forfeit to the Secretary of State for India in Council such sum as shall be deemed sufficient by the to cover any loss or damage which the Government may sustain by reason of such default

Dated

(*Signature*)

SCHEDULE C.

FORM OF WARRANT TO BE ISSUED BY THE COLLECTOR UNDER SECTION 25 OR 157

Seal.

To

THE OFFICER IN CHARGE OF THE CIVIL JAIL AT

WHEREAS *A. B* of was, on the day of 187 , ordered by to (*here state the substance of the demand made*); and whereas the said *A. B.*

has neglected to comply with the said order, and it has therefore been directed, under the provisions of section of the Bombay Land Revenue Code, that he be imprisoned in the civil jail until he obey the said order or until he obtain his discharge under the provisions of section 25 or 28 (*or* section 157 or 164 *as the case may be*) of the said Code; you are hereby required to receive the said *A.B.* into the jail under your charge and to carry the aforesaid order into execution according to law.

Dated this day of 187 .

(*Signature of Collector.*)

SCHEDULE D.

FORM OF BOND TO BE REQUIRED UNDER SECTION 28 OR 164.

WHEREAS I,

have been ordered by

to (*here state the nature of the demand*)

and whereas I dispute the right of the said to make the said order, I hereby bind myself to file a suit within fifteen days from the date of this bond in the District Court of

to contest the justice of the demand, and do agree that, in the event of a decree being passed against me, I will fulfil the same and will pay all amounts, including costs and interests, that may be due by me, or that if I fail to institute a suit as aforesaid, I will, when required, pay the abovementioned amount of rupees (*or* will deliver up the abovementioned papers or property, *as the case may be*), and in the case of my making default therein, I hereby bind myself to forfeit to the Secretary of State for India in Council the sum of rupees.

Dated

(*Signature.*)

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

WE

hereby declare ourselves securities for the above said , that he shall do and perform all that he has above undertaken to do and perform, and in case of his making default therein, we hereby bind ourselves to forfeit to the Secretary of State for India in Council the sum of rupees.

Dated

(*Signature.*)

SCHEDULE E.

(*See section 84*).

I.—FORM OF NOTICE TO BE GIVEN BY LANDLORD TO TENANT TO QUIT.

To *A. B.*

I DO hereby give you notice that I do intend to enter upon, and take possession of, the land (*here give the description*) which you now hold as tenant under me, and you are therefore required to quit and deliver up possession of the same at the end of this current year, terminating on the
of 187

(*Signed*) *C. D.*

Dated this day of 187

II.—FORM OF NOTICE TO BE GIVEN BY TENANT TO LANDLORD OF HIS INTENTION TO QUIT.

To *C D.*

I DO hereby give you notice that I shall quit and deliver up to you, at the end of this current year terminating on the of 187 , the land (*here give the description*) which I hold from you.

(*Signed*) *A. B.*

Dated this day of 187 .

SCHEDULE F.

FORM OF COMMISSION TO BE ISSUED TO A HOLDER OF ALIENATED LANDS OR VILLAGES OR HIS AGENT, UNDER SECTION 89.

Seal

THE Governor in Council of Bombay, by virtue of the powers vested in him by the Bombay Land Revenue Code, is pleased to confer on you (Jágírdár, *&c., or* Agent, *&c., as the case may be*,) power to in (*or* in respect of) the villages and lands specified in this Commission, in the manner prescribed in (*or* in section of) the said Code.

The villages and lands over which the power thus conferred upon you extends, are as follows —

(*Here enter the description*)

The within delegated power is vested in you during the pleasure and subject to the recall of the said Governor in Council

(*Signed*)

SCHEDULE H.

(*See section 133*).

FORM OF SANAD FOR BUILDING-SITES

(*Royal Arms*)

THE SECRETARY OF STATE IN COUNCIL

To_____

WHEREAS His Excellency the Governor of Bombay in Council, with a view to the settlement of the Land Revenue, and the record and preservation of proprietary and other rights connected with the soil, has, under the provisions of the Bombay Land Revenue Code, directed a survey of the lands within the of , and ordered the necessary inquiries connected therewith to be made, this sanad is issued under section 133 of the said Code to the effect that—

There is a certain plot of ground occupied by you in the division of the of registered No in the map marked sheet No and facing towards the the road leading from to , containing about square yards, and of the following shape and about the following dimensions —

You are hereby confirmed in the occupancy of the above described ground, exempt from all land-revenue (*or* subject to the payment of Rs. per annum to the land-revenue)

The terms of your tenure are such that your occupancy is both transferable and heritable, and will be continued by the British Government, without any

objection or question as to title, to whosoever shall from time to time be its lawful holder (subject only to the condition of the payment annually of the above land-revenue according to the provisions of the Bombay Land Revenue Code or of any other law for the time being in force, and to the liability to have the said rate of assessment revised at the expiration of a term of years reckoned from the , and thereafter at successive periods of years in perpetuity, and to the necessity for compliance with the provisions of the law from time to time in force as to the time and manner of payment of the said assessment, and to the liability of forfeiture of the said occupancy and of all rights and interests connected therewith in case of your failure to pay the said assessment as required by law).

This sanad is executed on behalf of the Secretary of State for India in Council by order of the Governor in Council of Bombay, by and under the hand and seal of this day of one thousand eight hundred and A. D.

(*Signed*)

SCHEDULE I.

FORM OF WARRANT TO BE ISSUED BY THE COLLECTOR UNDER SECTION 202.

Seal

To the Officer in charge of the Civil Jail at

WHEREAS *A. B.* of

has resisted (*or* obstructed) *C. D.* in removing *E. F.* (*or* himself, that is the said *A. B.*) from certain land in the village of , in the taluqa, and whereas it is necessary, in order to prevent the continuance of such obstruction (*or* resistance), to commit the said *A. B.* to close custody. You are hereby required, under the provisions of section 202 of the Bombay Land Revenue Code, to receive the said *A. B.* into the jail under your charge, and there to keep him in safe custody for days.

Dated this day of 187 .

(*Signature of Collector.*)

BOMBAY PORT TRUST ACT, 1879.

CONTENTS.

PREAMBLE.

I.—PRELIMINARY.

SECTIONS.

1. Short title.
2. Repeal of Bombay Act I of 1873.
3. Interpretation-clause.

II.—OF THE BOARD OF TRUSTEES.

Constitution of Board.

4. Act to be carried out by trustees.
5. Constitution of Board.
6. Elective trustees elected by Bombay Chamber of Commerce; or nominated by Government.
7. Appointments by Government.
8. Commencement of term of office of first trustees.
9. Nominee and elective trustees to retire by rotation.
10. Election and appointment of first trustees.
Trustees to be appointed and elected in March.
11. Chairman's tenure of office.
12. Trustees re-eligible.
13. Casual vacancies.
Acting trustees.

Disqualifications of Trustees.

14. Disqualifications for office of trustee.
Trustee becoming disqualified to cease to be trustee.
Proviso.

Salaries of Trustees.

15. Salary of Chairman.
Trustees other than Chairman entitled to fees.

Proceedings of Board.

16. Provisions as to Board's proceedings.
Vacancy not to affect proceedings.
Board to arrange for transaction of business,
to meet once a fortnight;
special meetings whenever necessary upon an emergency;
quorum;
presiding at meetings;
questions decided by a majority of votes;
votes to be recorded, if poll demanded;
minutes of proceedings.

SECTIONS.

Board may delegate powers to committees.
Chairman of Committee-meetings.
Meetings of Committees.
Special meetings.
Questions how decided at Committee-meetings.
Acts of Board, &c., not invalidated by informalities.
17. Power of Chairman as to contracts.
18. Board may compound for breach of contract.

The Chairman.

19. Duties of Chairman.
20. Leave of absence to Chairman.
Leave and acting allowances how defrayed.

III.—OF THE OFFICERS AND SERVANTS OF THE BOARD.

Strength of Staff.

21. Schedule of staff and of pay and allowances to be prepared and sanctioned by Board.
Proviso.
22. Board to regulate—
grant of leave;
absentee-allowances;
acting allowances;
length of service;
pensions, &c.;
contributions to provident fund.
Proviso as to certain officers and servants.

Powers and appointment, &c.

23. Appointments, &c., by whom to be made.
24. Sanction of Government when necessary.
"Engineer" defined.

Continuance of present Officers and Servants.

25. Officers and servants of late trustees continued.

IV.—OF THE PROPERTY AND LIABILITIES OF THE BOARD.

General Powers as to Property.

26. Powers of Board as to property.
27. Procedure when Board unable to acquire, by agreement, immoveable property.

Transfer of Property to Board.

28. Transfer to Board of property of present Port Trust.
29. Vesting in Board the right, title and interest acquired by Secretary of State in other properties.

SECTIONS.

30. Board to issue securities in payment of price of properties vested in them under section 29.
Securities to be for not less than Rs. 100 each,
and transferable.

Application of the Board's Property.

31. Sale-proceeds of Board's property how invested.
32. Saving of powers of Government under Land Acquisition Act, 1870.

Liabilities.

33. Capital-debts of Board.
34. Interest in what cases payable.
35. Interest to be paid out of Provincial revenues if default made by Board.
36. Lump payment to municipality in lieu of consolidated rate.
37. Roads and thoroughfares constructed by Board to be maintained by Municipality in consideration of such payment.
Roads and thoroughfares not to be stopped-up without consent of Board.
38. Disputes under last section to be settled by Government.

V.—OF THE BORROWING POWERS OF THE BOARD.

39. Governor in Council may advance money to Board, or
Board may raise loans.
Proviso.
40. Manner of raising loans determined by Government.
41. Interest on debentures to be first charge on rates.
42. Form of debenture.

VI.—OF REVENUE AND EXPENDITURE.

Levy of Rates.

43. Scale of rates to be framed by Board;
and submitted to Government for sanction.
Scale under section 57, Bombay Act I of 1873, to continue in force until altered.
Power to remit rates.
44. Toll on troops.
45. Charges for landing, shipping, and transhipping goods.
46. Charges for towage.

Division of Accounts.

47. Pilotage-account.
48. Items to be credited to general account.
49. Monies credited to general account how to be expended.
50. Pilotage-fees how to be credited.
Monies credited to pilotage-account how expended.

Disposal of Balances.

51. Balances may be invested by Board in public securities.
Amounts to be so invested to be limited by Government.
Surplus how disposed of.
Proviso as to claims of pilots, &c., on balance of pilotage-account.
Interest, &c., how credited and debited.

Annual Estimates.

SECTIONS.

52. Chairman to submit annual estimate of income and expenditure.
53. Board to revise and sanction estimate.
54. Estimate to be submitted to Governor.
55. Supplementary estimates may be made when necessary.
56. No expenditure above Rs. 5,000 to be incurred unless sanctioned in estimate.
57. Estimate prepared under Bombay Act I, 1873, to be accepted for purposes of Act.

Audit of Accounts.

58. Accounts to be audited and examined.
Auditors to have power to call for books, &c.
Remuneration to be fixed by Government;
Report to be published.

Fulfilment of Board's Liabilities.

59. Board bound to provide for fulfilment of liabilities.
60. In default Governor may require Board to increase rates;
and on Board's failing, may himself increase them.
Governor may also appoint receiver to recover portion of Board's income.

VII.—OF THE POWERS AND FUNCTIONS OF THE BOARD.

Recovery of Rates.

61. Recovery of rates in arrears.
62. Lien for freight preserved after landing if notice be given.
63. Discharge of lien by payment or release.
64. If rates not paid, or lien for freight not discharged, goods may be sold after two months.
65. Application of proceeds of sale.
66. Power to distrain for non-payment of rates, &c.
67. Port-clearance not granted till rate, &c., are paid.

Works.

68. Works to be executed under Act.
Procedure before commencement of new work.

Regulation of use of Wharves, &c.

69. Saving of rights of Government to use wharves, &c., for collecting duties;
and of powers of customs-officers.
70. Places to be set apart for use of customs-officers on wharves, &c;
but right of Board to levy rates not affected;
surplus-income derived from portion of Customs Bonded Warehouse used as public warehouse to be paid to Board.
71. Board to provide free landing places.

Control of Pilots.

SECTIONS.

72. Trustees vested with right and privilege of maintaining pilots.

Bye-Laws.

73. Trustees empowered to make bye-laws.
74. Approval and publication of bye-laws.
Cancelment by Government.
75. Penalties for infringement of bye-laws.
76. Bye-laws and scales of rates and charges to be exhibited.
77. Continuance of bye-laws framed under Bombay Act I, 1873.

VIII.—PENALTIES.

78. For being interested in contracts with Board.
79. For obtaining illegal gratification.
80. For refusing or neglecting to appear before Auditor, &c.
81. For setting up erection below high-water mark in port.
82. For understating quantity or weight of goods, &c.
83. For evading rates, &c.
84. Recovery of value of damage to property of Board.
85. Cognizance of offences.

IX.—MISCELLANEOUS.

86. Provision when day appointed for any purpose falls on Sunday or holiday.
87. Limitation of suits, &c.

SCHEDULE A.—Properties referred to in section 29.
SCHEDULE B.—Form of Security.
SCHEDULE C.—Statement of capital-debts of Board due to Secretary of State.
SCHEDULE D.—Form of Debenture.

ACT No. VI OF 1879.

Received the Governor's assent on the 31st of July, 1879, and the Governor-General's assent on the 27th of August, 1879, and published by the Governor on the 4th of September, 1879.

An Act to consolidate the immoveable and other property vesting in the Trustees of the Port of Bombay and certain other property on, or connected with, the foreshore of the Island of Bombay into one estate, and to vest the control and management of the same in one Public Trust; and for other purposes.

WHEREAS it is expedient that the immoveable and other property vesting in Preamble.

the Trustees of the Port of Bombay should be consolidated with certain other property on, or connected with, the foreshore of the Island of Bombay into one estate, and that such consolidated estate should, together with the rights and powers now exerciseable by the said Trustees, be vested, subject to the provisions hereinafter appearing, in a new Trust; It is enacted as follows:—

I.—Preliminary.

Short title.

1. This Act may be called "The Bombay Port Trust Act, 1879."

Repeal of Bombay Act 1 of 1873.

2. From the date which shall be notified by the Governor in Council under section 8, Bombay Act I of 1873 (The Bombay Port Trust Act, 1873), shall be repealed:

Provided that all debts and obligations incurred, all contracts entered into, and all matters and things engaged to be done by, with or for the trustees appointed under the said Act, shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Board constituted by this Act;

and all rates and sums of money due to the said trustees shall be deemed to be due to the said Board;

and all suits or other legal proceedings, civil or criminal, instituted, or which might, but for the passing of this Act, have been instituted, by or against the said trustees, may be continued or instituted by or against the said Board.

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context,—

"Rates."

(1) the word "rates" includes any toll, due, rent, rate or charge leviable under section 43;

"Port."

(2) "port" means the Port of Bombay within such limits as may from time to time be defined by Government for the purposes of this Act, by notification in the *Bombay Government Gazette*, and until a notification is so issued, within such limits as may have been defined by Government under section 73 of the Bombay Port Trust Act, 1873, for the purposes of that Act;

"Vessel."

(3) "vessel" denotes anything made for the conveyance by water of human beings or of property;

"Master."

(4) "master," when used in relation to any vessel, means any person having for the time being the charge or control of such vessel;

"Owner."

(5) "owner," when used in relation to goods, includes any consignor, consignee, shipper or agent for the sale or custody of such goods; and when used in relation to any vessel, includes any part owner, charterer, consignee or mortgagee in possession thereof;

(6) "land" includes the bed of the sea below high-water mark, "Land"

(7) "wharf" includes a bandar and any part of the foreshore used for loading or unloading goods, and any wall enclosing or adjoining the same, "Wharf"

(8) "dock" includes basins, locks, cuts, entrances, graving-docks, graving-blocks, inclined planes, patent slips, gridirons, quays, warehouses and other works and things appertaining to any dock, "Dock"

(9) "pier" includes any stage, stairs, landing-place, hard, jetty, landing-stage, floating barge or pontoon, and any bridges or other works connected therewith, "Pier"

(10) the word "goods" includes wares and merchandise of every description, "Goods."

(11) "immoveable property" includes wharfage-rights and all other rights exerciseable on, over or in respect of any land, wharf, dock or pier, "Immoveable property"

(12) the words "public securities" mean securities of the Government of India, Bombay municipal debentures, and securities and debentures issued under sections 30 and 41, respectively, of this Act "Public securities"

II —Of the Board of Trustees.

Constitution of Board

4 The duty of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter contained, be vested in a Board, to be called "the Trustees of the Port of Bombay," and such Board, hereinafter referred to as "the Board," shall be a body corporate and have perpetual succession and a common seal, and shall sue and be sued by the name first aforesaid Act to be carried out by trustees.

5 The Board shall consist of thirteen members, that is to say, of

five elective trustees,

seven nominee-trustees, and

a Chairman,

and not less than three of the trustees shall be natives of India residing in the city of Bombay Constitution of Board

6 The elective trustees shall be elected by the members for the time being of the Bombay Chamber of Commerce in such manner as shall from time to time be determined at a meeting of the members of the said Chamber convened in accordance with the rules at the time in force in this behalf. The Secretary to the said Chamber shall make a return to the Government of the name of every person so elected by the Chamber, and his return shall be published in the *Bombay Government Gazette* Elective trustees elected by Bombay Chamber of Commerce

or nominated by Government.

In the event of default being made by the Chamber in electing any trustee under the foregoing provisions within the period hereinafter prescribed in this behalf, it shall be lawful for Government by notification in the *Bombay Government Gazette* to nominate a person, and the person so nominated shall be deemed to be a trustee as if he had been duly elected by the Chamber.

Appointments by Government.

7. The nominee-trustees and the Chairman shall be appointed by Government by notification in the *Bombay Government Gazette*.

Commencement of term of office of first trustees.

8. The term of office of the first nominee and elective trustees shall commence on such date as shall be notified in this behalf by the Governor in Council.

Nominee and elective trustees to retire by rotation

9. Three of the first nominee-trustees and three of the first elective trustees shall, unless they become in the meantime disqualified, hold office up to and inclusive of the 31st day of March next succeeding the date on which their term of office shall commence, the selection of the said six trustees being made by lot at such time and in such manner as the Chairman shall determine. The remaining four of the first nominee-trustees and the remaining two of the first elective trustees shall hold office until and inclusive of the 31st day of March next following the 31st day of March aforesaid.

In every other case the nominee and elective trustees shall, unless they become in the meantime disqualified, hold office for a term of two years.

Election and appointment of first trustees.

10. The first elective trustees shall be elected on some day not later than a fortnight previous to the date which shall be notified by the Governor in Council under section 8; and the first nominee-trustees shall be appointed on some day during the said fortnight; in every other case elective trustees shall be elected on some day not earlier than the first and not later than the fifteenth day of the month of March next preceding the 1st of April from which their term of office is to commence; and nominee-trustees shall be appointed on some day in the remainder of the said month of March.

Trustees to be appointed and elected in March.

Chairman's tenure of office.

11. The Chairman shall hold office during the pleasure of Government, provided that he does not in the meantime cease, through disqualification, to be a trustee.

Trustees re-eligible.

12. Any person on ceasing to be a trustee, shall, unless disqualified under section 14, be re-eligible.

Casual vacancies.

13. Any casual vacancy in the office of a trustee other than the Chairman, occasioned by the death, resignation, or disqualification of such trustee, shall be filled up within one month by Government if the office vacated was that of a nominee-trustee, or by the Chamber of Commerce if it was that of an elective trustee, in the same manner and subject, so far as may be, to the same provisions as are applicable in the case of original appointments and elections of trustees: Provided that the trustee so chosen shall retain his office so long only

as the vacating trustee would have retained the same if such vacancy had not occurred.

Acting trustees.

If a trustee departs from Bombay with an intention of being absent for a longer period than three months, or if a trustee shall have been absent for such period, a person shall be elected or appointed as aforesaid to act for such trustee during his absence or until he shall cease to be a trustee, and the person so acting shall be deemed for all the purposes of this Act to be a trustee.

Disqualifications of Trustees.

Disqualifications for office of trustee.

14. No person shall be qualified to be a trustee during such time as he

(*a*) is an uncertificated bankrupt or insolvent, or

(*b*) holds any office or place of profit under the Board, or

(*c*) has, directly or indirectly, any share or interest in any work done by order of the Board, or in any contract, or employment with, by, or on behalf of, the Board;

and any trustee who

Trustee becoming disqualified, to cease to be trustee.

(*d*) becomes disqualified for any of the aforesaid reasons, or

(*e*) is absent from the meetings of the Board for a period exceeding twelve consecutive months, or, without the permission of the Board, from six consecutive meetings of the Board, or

(*f*) is sentenced to imprisonment,

shall cease to be a trustee, and his office shall thereupon become vacant:

Proviso.

Provided always that no trustee shall vacate his office by reason only of his

(*g*) having a share in any Joint Stock Company which shall contract with or be employed by, or on behalf of, the Board, or

(*h*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted, or

(*i*) being interested in any loan of money to the Board.

Salaries of Trustees.

Salary of Chairman.

15. The Chairman shall receive such salary as Government shall from time to time determine.

Trustees other than Chairman entitled to fees.

Every trustee other than the Chairman shall be entitled to a fee of thirty rupees for each meeting of the Board at which a quorum is present and business is transacted and which he attends from the beginning to the end thereof: Provided that if more than one such meeting is held in any one week, no more than thirty rupees shall be paid to any trustee for his attendance at all such meetings during that one week.

Proceedings of Board.

Provisions as to Board's proceedings.

16. The following provisions shall be observed with respect to the proceedings of the Board (namely) :—

Vacancy not to affect proceedings.

(1) During any vacancy in the Board, the continuing trustees may act as if no vacancy had occurred;

Board to arrange for transaction of business;

(2) The Board shall meet together and shall from time to time make such arrangements, not inconsistent with this Act, with respect to the place, day, hour, notice, management and adjournment of such meetings, and generally with respect to the transaction of business, as they think fit, subject to the following conditions (namely) :—

to meet once a fortnight;

(*a*) that a meeting shall be held once at least in every fortnight;

special meetings;

(*b*) that the Chairman may, whenever he thinks fit, and shall, upon the written request of not less than three trustees, call a special meeting;

quorum;

(*c*) that no business shall be transacted at any meeting unless at least five trustees are present from the beginning to the end of such meeting;

presiding at meetings;

(*d*) that every meeting shall be presided over by the Chairman, if he is present at the time appointed for holding the same, and if he is absent, by such one of the trustees present as may be chosen by the meeting;

questions decided by majority of votes;

(*e*) that all questions shall be decided by a majority of votes of the trustees present, the president having a second or casting vote in all cases of equality of votes;

votes to be recorded, if poll demanded;

(*f*) that if a poll be demanded, the names of the trustees voting and the nature of their votes shall be recorded by the president;

minutes of proceedings;

(*g*) that minutes shall be kept of the names of the trustees present, and of the proceedings at each meeting, in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the president of such meeting, and shall be open to inspection by any trustee during office-hours;

Board may delegate powers to committees.

(3) The Board may delegate any of their powers to committees consisting of such trustees as they think fit; any committee so formed shall conform to any instructions that may from time to time be given to them by the Board, and the Board may at any time discontinue or alter the constitution of any committee so formed;

Chairman of Committee-meetings.

(4) A committee may elect a chairman of their meetings, and if no such chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting;

Meetings of Committees.

(5) Committees may meet and adjourn as they think proper; but the Chairman of the Board may, whenever he thinks fit, and shall, upon the written

request of not less than two members of a committee, call a special meeting of such committee; Special meetings.

(6) Questions at any meeting of a committee shall be decided by a majority of votes of the members present, and in case of an equal division of votes the chairman of the meeting shall have a second or casting vote; but no business shall be transacted at any such meeting unless at least two-thirds of the members of the committee are present from the beginning to the end thereof; Questions how decided at Committee-meetings.

(7) No act of the Board, or of any Committee, or of any person acting as trustee, shall be deemed to be invalid by reason only of some defect in the appointment of such Board, Committee, or trustee, or on the ground that they, or any of them, were disqualified for the office of trustee. Acts of Board, &c., not invalidated by informalities.

17. The Chairman may, on behalf of the Board, enter into any contract or agreement whereof the value or amount shall not exceed one thousand rupees, in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf; but every other contract and agreement on behalf of the Board shall be in writing, and shall be signed by the Chairman and by two other trustees, and shall be sealed with the common seal of the Board. No contract or agreement not executed as is in this section provided shall be binding on the Board. Power of Chairman as to contracts.

18. The Board may compound or compromise for, or in respect of, any claim or demand arising out of any contract entered into by them under this Act, or in respect of any action or suit instituted by or against them, for such sum of money, or other compensation, as they shall deem sufficient. Board may compound for breach of contract.

The Chairman.

19. The Chairman shall— Duties of Chairman.

(1) attend every meeting of the Board unless prevented by sickness or other reasonable cause;

(2) exercise supervision and control over the acts and proceedings of all officers and servants of the Board in matters of executive administration, and in matters concerning the accounts and records of the Board; and, subject to the regulations at the time being in force framed by the Board under section 22, dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances;

(3) furnish to the Government a copy of the minutes of any of the Board's proceedings, and any returns or other information which Government may from time to time call for.

20. Government may from time to time grant to the Chairman such leave of absence as they may deem fit, and any person whom Government appoints Leave of absence to Chairman.

to act for the Chairman during any such absence on leave shall, while so acting, be deemed for all the purposes of this Act to be the Chairman.

Leave and acting allowances how defrayed.

The allowance, if any, which Government direct to be paid to the Chairman during his absence on leave, and the salary which Government direct to be paid to the person appointed to act for him, shall be a charge on the general account of the Board.

III.—Of the Officers and Servants of the Board.

Strength of Staff.

Schedule of staff and of pay and allowances to be prepared and sanctioned by Board.

21. The Board shall from time to time prepare and sanction a schedule of the staff of officers and servants whom they shall deem it necessary and proper to maintain for the purposes of this Act. Such schedule shall also set forth the amount and nature of the salaries, fees and allowances which the board sanctions for each such officer or servant.

Until a schedule is prepared and sanctioned under this section, the schedule in force under section 23 of the Bombay Port Trust Act, 1873, on the day previous to the date notified by the Governor in Council under section 8, shall be deemed to be the schedule prepared and sanctioned by the Board under the foregoing provisions:

Proviso.

Provided always that artisans, porters and labourers, and mukaddams of porters and labourers shall not be deemed to be officers or servants within the meaning of this section or of section 22 or 23 of this Act.

Board to regulate—

22. The Board shall from time to time frame regulations—

grant of leave;

(1) for regulating the grant of leave to the officers and servants of the Board;

absentee-allowances;

(2) for authorizing the payment of allowances to the said officers and servants, or to certain of them, whilst absent on leave;

acting allowances;

(3) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave;

length of service;

(4) for regulating the period of service of all such officers and servants;

pensions, &c.;

(5) for determining the conditions under which such officers and servants or any of them shall, on retirement, receive pensions, gratuities or compassionate allowances, and the amount of such pensions, gratuities or compassionate allowances;

contributions to provident fund.

(6) for authorizing the payment of contributions at certain prescribed rates and subject to certain prescribed conditions to any provident fund which may, with their approval, be established by the officers and servants appointed under this Act:

Provided that officers and servants who were appointed by Government previous to the passing of the Bombay Port Trust Act, 1873, and whose salaries were paid from the fund known as "The Bombay Port Fund," and who have continued in the service of the trustees appointed under the Bombay Port Trust Act, 1873, and of the trust constituted by this Act, shall be entitled to retiring pensions, gratuities or compassionate allowances at the same rates and subject to the same conditions as may from time to time be applicable to the servants of Government of similar standing and status; and that in the event of any question arising as to the right of any such officer or servant to a retiring pension, gratuity or compassionate allowance, or as to the amount of retiring pension, gratuity or compassionate allowance to which he is entitled, it shall be determined by Government. Proviso as to certain officers and servants.

Powers of appointment, &c.

23. Subject to the provisions of the said regulations and of the schedule for the time being in force framed by the Board under section 22, the power of appointing, promoting, suspending, dismissing, fining, reducing or granting leave to the officers and servants of the Board shall be exercised by the Chairman in the case of officers and servants whose monthly salary does not exceed three hundred rupees, and in every other case by the Board. Appointments, &c., by whom to be made.

The power of dispensing with the services of any officer or servant of the Board, otherwise than by reason of such officer's or servant's own misconduct, or of permitting any such officer or servant to retire on a pension, gratuity or compassionate allowance, shall, subject to the aforesaid provisions, be exercised by the Board alone.

24. Every order or regulation made by the Board under any of the three last preceding sections shall, so far as the same relates to the Secretary, Engineer, Traffic-manager, or Chief Accountant of the Board, be subject to the previous sanction of Government. Sanction of Government when necessary.

In this section the word "Engineer" means the engineer of highest grade on the Board's ordinary staff, and also any superior officer who may from time to time be employed in the capacity of Consulting Engineer to the Board. "Engineer" defined.

Continuance of present Officers and Servants.

25. All officers and servants holding any office on the day previous to the date notified by the Governor in Council under section 8, under the trustees appointed under the Bombay Port Trust Act, 1873, shall be deemed to have been appointed under this Act, and shall continue to hold the same office and to receive the same remuneration under the Board until an order to the contrary is passed by competent authority under this Act. Officers and servants of late trustees continued.

IV.—Of the Property and Liabilities of the Board.

General Powers as to Property.

Powers of Board as to property.

26. The Board shall, for the purposes of this Act, have power to acquire and hold moveable and immoveable property, whether within or without the limits of the port or city of Bombay; and shall also have power to lease, sell or otherwise convey any moveable or immoveable property which may have become vested in or been acquired by them:

Provided that no sale of immoveable property and no lease of any such property for a term exceeding fifty years shall be valid unless such sale or lease shall have been made with the previous sanction of Government.

Procedure when Board unable to acquire, by agreement, immoveable property.

27. When the Board are unable to acquire, by agreement, any immoveable property required for the purposes of this Act, Government may, in their discretion, order proceedings to be taken for acquiring the same on behalf of the Board as if such property were land needed for a public purpose within the meaning of the Land Acquisition Act, 1870.

The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall be forthwith defrayed by the Board, and thereupon the said property shall vest in the Board.

Transfer of Property to Board.

Transfer to Board of property of present Port Trust.

28. All such immoveable and other property as is held by or in trust for the Trustees of the Port of Bombay under or in pursuance or for the purposes of the Bombay Port Trust Act, 1873, shall, upon and after the date notified by the Governor in Council under section 8, vest in the Board, but subject to all charges and liabilities affecting the same.

The property vested by this section in the Board shall be deemed to include the estate, right, title and interest of the Secretary of State for India in Council in the rock, stones, shingle, gravel, sand or soil within the port, and also the right of levying rates on all goods landed at or shipped from any part of the foreshore between Malabár Point and Kolába Point.

Vesting in Board the right, title and interest acquired by Secretary of State in other properties.

29. Whereas the Secretary of State for India in Council has initiated measures for the acquisition from the holders thereof, of the properties severally named and generally described in schedule A, but the arrangements for the said acquisition are not yet complete; and whereas it is expedient that all such estate and interest as may be acquired by the Secretary of State for India in Council in the said properties should vest in the Board; it is hereby enacted that upon and after such date as shall be fixed in this behalf by the Governor in Council, all the estate, right, title and interest of the Secretary of State for India in Council in the said properties shall, subject to the

provisions hereinafter contained, become vested in the Board, subject to all covenants, charges, contracts and liabilities affecting the same.

Board to issue securities in payment of price of properties vested in them under section 29.

30. And whereas it is purposed that the purchase-money of the said properties shall be paid in Port Trust securities bearing interest at the rate of four per centum per annum; it is hereby enacted that the Board shall within two months from the date aforesaid execute and deliver to the holders of the said properties securities in the form of schedule B, under their common seal, for the sums for which their said properties shall be respectively purchased by the Secretary of State for India in Council: Provided that the said sums shall not exceed, in the aggregate, seventy-seven lákhs of rupees, and that so long as the said amount is not exceeded it shall be competent to the Secretary of State for India in Council to acquire such estate, right, title and interest in the said properties as he shall deem fit, anything contained in schedule A notwithstanding.

Securities to be for not less than Rs. 100 each,

Every such security shall be for an amount of not less than one hundred rupees, and shall covenant for the payment of interest on the principal-sum at the rate of four per centum per annum from the date fixed by the Governor in Council under section 29; and such interest shall be payable half-yearly on or after the 1st April and the 1st October.

and transferable.

The said securities shall be transferable by endorsement.

Application of the Board's Property.

Sale-proceeds of Board's property, how invested.

31. The proceeds of the sale of any portion of the property vested in or acquired by the Board under or by virtue of this Act, and all sums paid to the Board by way of compensation under the next following section, shall be applied as follows, and not otherwise (namely):—

(*a*) in liquidation of the principal-sum of any debt contracted under paragraph 2 of section 39, if the same or any portion of the same is at the time payable; or

(*b*) in liquidation of the principal of any debt at the time due to the Secretary of State for India in Council; or

(*c*) in liquidation of the securities, or of any of them, issued under section 30.

Saving of powers of Government under Land Acquisition Act, 1870.

32. Nothing in this Act shall be deemed to affect the power of Government to order proceedings to be taken under the Land Acquisition Act of 1870, or any other law for the time being in force for the acquisition of land for public purposes in respect of any land vesting in the Board.

Liabilities.

Capital-debts of Board.

33. The capital-debts due by the Board on account of the immoveable and other property vested in it by this Act are as follows (namely):—

(*a*) to the Secretary of State for India in Council—the amounts mentioned

in schedule C; and the amounts which have been advanced by or on behalf of the Secretary of State for India in Council to the trustees appointed under the Bombay Port Trust Act, 1873, or applied by or on behalf of the said Secretary of State in Council, with the consent of the said trustees, for the improvement of the port of Bombay or otherwise under sections 46 and 50, clause (2), of the said Act;

(*b*) to the holders of the securities to be issued by the Board under section 30—the amounts of such securities.

Interest in what cases payable.

34. On the amounts mentioned in column three of schedule C no interest shall be payable.

On the amounts mentioned in column two of the said schedule, interest shall be payable by the Board to the Secretary of State for India in Council annually on the 1st April at the rate of four per centum per annum until, and inclusive of, the twenty-fifth day of June 1883, and thereafter at the rate of four and one-half per centum per annum.

On the amounts due to the Secretary of State for India in Council under clause (*a*) of the last preceding section which are not mentioned in the said schedule, interest shall be payable by the Board to the said Secretary of State in Council annually on the 1st April at the rate of four and one-half per centum per annum.

On the amounts, if any, which may hereafter be advanced to the Board by the Governor in Council under section 39 of this Act, interest shall be payable by the Board to the Secretary of State in Council on such dates and at such rates as shall be agreed upon between Government and the Board in respect of such advances.

On the amounts of the securities issued by the Board under section 30, interest at the covenanted rate of four per centum per annum shall be payable by the Board half-yearly on the 31st March and the 30th September to the Accountant General of Bombay or other officer for the time being performing the duties of the office of the said Accountant General, who shall pay the same on or after the 1st April and 1st October respectively to the holders of the said securities.

If any sum due by the Board under this section on account of interest, or any portion thereof, is not paid by them on the date on which the same is hereby declared to be payable, they shall continue liable for the payment thereof, and interest shall be paid by them to the Secretary of State for India in Council upon the balance from time to time overdue at the rate of four and one-half per centum per annum, until the whole amount is paid.

Interest to

35. In the event of default being made by the Board in any payment of

interest due by it under paragraph two, three or four of the last preceding section, the same shall be paid by the Accountant General of Bombay or other officer aforesaid, who shall debit the amount so paid to the Provincial Revenues of the Presidency of Bombay; and in the event of default being made by the Board in any payment due by it under paragraph five of the said section, the Accountant General or other officer aforesaid shall nevertheless pay to the security-holders the interest due upon their securities, and shall debit the amounts so paid to the Provincial Revenues of the Presidency of Bombay.

be paid out of Provincial revenues if default made by Board.

36. The Board shall pay annually on the 30th day of September to the Municipal Corporation of the city of Bombay a lump-sum which shall be calculated at the following rates (namely):

Lump-payment to municipality in lieu of consolidated rate.

(*a*) for the period commencing on the 1st day of October last preceding the date on which this Act comes into force, and ending on the day next previous to the date fixed by the Governor in Council under section 29, at the rate of fifty thousand rupees per annum;

(*b*) for the period commencing on the date fixed as aforesaid, and ending on the 25th day of June, 1883, at the rate of sixty thousand rupees per annum; and

(*c*) thereafter at such rate as the Governor in Council shall from time to time determine.

The said payment shall be in lieu of the consolidated rate leviable by the said Corporation, to which the property hereby vested in the Board or some portion of the same would otherwise be liable to be assessed.

37. In consideration of the said payment the Municipal Commissioner shall, on being satisfied that any road or thoroughfare has been duly levelled, paved, metalled, flagged, channelled and sewered by the Board, declare such road or thoroughfare to be a public road or thoroughfare, and the municipality shall thenceforward maintain, keep in repair, light and cleanse such road or thoroughfare. The municipality shall also, on requisition by the Board, maintain, keep in repair, light and cleanse the road of any wharf, dock or pier vested in the Board.

Roads and thoroughfares constructed by Board to be maintained by municipality in consideration of such payment.

The municipality shall maintain, keep in repair, light and cleanse the said roads and thoroughfares in the same manner and with the same liabilities in respect thereof as if the said roads and public thoroughfares were vested in the said municipality; but it shall not be competent to the Municipal Commissioner or to the municipality to discontinue or stop-up any road or thoroughfare which at any time vested in, or which has been constructed by, the Board or the Trustees of the Port appointed under the Bombay Port Trust Act, 1873, and which has been declared to be a public road or thoroughfare under this section or under section 9 of the said Act, without the previous

Roads and thoroughfares not to be stopped-up without consent of Board.

consent in writing of the Board; and the land occupied by any road or thoroughfare so discontinued or stopped shall vest in the Board, and not in the municipality.

Disputes under last section to be settled by Government.

38. Any dispute which arises between the Board and the municipality in respect of any of the provisions of the last preceding section shall be determined by the Government, and their decision shall be final.

V.—Of the Borrowing Powers of the Board.

Governor in Council may advance money to Board, or

39. The Governor in Council, acting on behalf of the Secretary of State for India in Council, may, with the previous consent of the Governor General of India in Council, from time to time advance money to the Board for the general purposes of this Act; or

Board may raise loans.

The Board may, with the previous consent of Government, from time to time raise money for the said purposes:

Proviso.

Provided always that no expenditure shall be charged by the Board to capital, except with the express sanction of Government.

Manner of raising loans determined by Government.

40. Whenever the consent of Government has been obtained to the raising of money by the Board under the last preceding section, Government shall, with the previous consent of the Governor General of India in Council, direct and appoint the manner in which such money shall be raised.

Interest on debentures to be first charge on rates.

41. If such money shall be raised on debentures bearing interest, such interest shall be a charge on the rates prior to the charge for interest payable to the Secretary of State for India in Council, provided for by section 34.

Form of Debenture.

42. All debentures which may be so issued shall be in the form of schedule D, and shall be transferable by endorsement; and the right to sue in respect of the moneys secured by any such debentures shall be vested in the holders thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.

VI.—Of Revenue and Expenditure.

Levy of Rates.

Scale of rates to be framed by Board;

43. The Board shall frame a scale of tolls, dues, rents rates, and charges to be levied for each or any of the following matters (namely):

(*a*) for the landing, shipping, wharfage, cranage, storage or demurrage of goods at,

(*b*) for permission for vessels or boats to approach, or be alongside, and,

(*c*) for animals or vehicles carrying goods to or from, or entering upon or plying for hire at or on,

any wharf, dock or pier in the possession of the Board, and so much of the Wári Bandar and of the Gun Carriage Reclamation as is in the possession of the Great Indian Peninsula and the Bombay, Baroda and Central India Railway Companies respectively: Provided that no such toll, due, rent, rate or charge shall be leviable at so much of the said Wári Bandar and Gun Carriage Reclamation as is aforesaid in respect of any goods, vessel, animal or vehicle belonging to the said companies respectively.

The scale so framed shall be submitted to Government for sanction, and when so sanctioned and published in the *Bombay Government Gazette* shall have the force of law, and, subject to the like sanction and publication, may from time to time be amended or added to by the Board. — and submitted to Government for sanction.

Until a scale of rates is framed, sanctioned and published under this section, the scale in force when this Act comes into operation under section 57 of the Bombay Port Trust Act, 1873, shall be deemed to have been duly framed, sanctioned and published under this section. — Scale under section 57, Bombay Act I, 1873, to continue in force until altered.

The Board may, in special cases, with the previous sanction of Government, remit the whole or any portion of the rates leviable under this section. — Power to remit rates.

44. The said rates shall not be leviable in respect of any vessel employed by Government solely for the transport of troops, nor in respect of the baggage or other effects of any troops landing or embarking at the port. In lieu thereof a toll shall be payable by Government to the Board on all troops and all the families of troops landing or embarking at Bombay at the rate of one rupee per head, and, if such troops and their families shall land or embark at any dock in the possession of the Board, at such additional rate as shall from time to time be determined by Government. — Toll on troops.

45. Subject to the provisions of any law for the time being in force, the Board may land, ship or tranship goods between vessels in the harbour and the wharves, piers or docks in their possession, and may make such charges for so doing as they shall think fit. — Charges for landing, shipping, and transhipping goods.

46. The Board may procure and maintain such number of steam-vessels as they may deem fit, to be employed in towing vessels into, out of, or in the harbour, and may make such charges for towage by the said steam-vessels as they shall think fit. — Charges for towage.

Division of Accounts.

47. In the accounts of the Board a pilotage-account shall be kept separate from the general account. — Pilotage-account.

48. The rates and charges from time to time levied under sections 43 to 46, together with all rents of lands and buildings, and all fines and penalties levied under this Act, other than fines and penalties levied from pilots or other — Items to be credited to general account.

persons employed in the pilot-service, and all miscellaneous items of revenue recovered by the Board, except pilotage-fees, shall be credited to the general account.

Moneys credited to general account, how expended

49. The moneys credited to the general account shall be held by the Board in trust, and except as is hereinafter provided shall be applied by them in payment of the following charges (namely) :—

(1) the salaries, fees, allowances, pensions, gratuities, compassionate allowances or other moneys due to the trustees and to the officers and servants appointed under this Act, and the contributions, if any, duly authorized to be made to any provident fund established by the said officers and servants;

(2) the cost of repairs and maintenance of the property vested in the Board, and all charges upon the same and all working expenses;

(3) the interest due on any money that may have been raised by the Board under section 39;

(4) the cost, or such portion of the cost, of any new work, plant, vessel or appliance which the Board may determine to charge to revenue;

(5) the interest payable by the Board under section 34:

Provided always that no charge which is debitable under section 50 to the pilotage-account shall be debited to the general account.

Pilotage-fees how credited.

50. All fees for pilotage and all fines and penalties levied under this Act from pilots or other persons employed in the pilot-service shall be credited to the pilotage-account and shall be held by the Board in trust, and be applied, in such proportions as they shall from time to time direct, to the following purposes only (namely) :—

Moneys credited to pilotage account, how expended

(1) the purchase and maintenance in repair of such vessels, and the supply of such materials, stores or other things as the Board deem it necessary to maintain or supply for the efficiency of the pilot-service;

(2) the payment of the salaries and allowances of pilots and other officers and servants of the Board employed in the pilot-service or in the supervision thereof;

(3) the payment of pensions or retiring gratuities or compassionate allowances to pilots and other officers and servants engaged in the pilot-service, and of the contributions, if any, duly authorized to be made in their behalf to any provident fund.

Disposal of Balances.

Balances may be invested by Board in public securities.

51. The Board may invest any balance remaining on the 31st March of each year to the credit of either the general or pilotage-account after meeting all the charges properly debitable to such account, in public securities, and may from time to time sell the said securities and re-invest the proceeds

in other public securities, or credit the same to the account to which the balance invested belonged, for expenditure on any of the purposes to which the moneys credited to such account may lawfully be applied.

But the money so invested by the Board, whether in respect of the general account or of the pilotage-account, shall not exceed such amount, annually or in the aggregate, as shall from time to time be prescribed by Government, and any surplus remaining after deducting the amounts which may be so invested shall be applied— Amounts to be so invested to be limited by Government. Surplus how disposed of.

(*a*) if such surplus belongs to the general account—in liquidation, on or before the 1st August next following the 31st March on which such surplus accrued, of the principal of any loan raised by the Board under section 39, or of the capital of any debt at any time due by the Board to the Secretary of State for India in Council; or of the money due to the holders of the securities issued by the Board under section 30; and

(*b*) if such surplus belongs to the pilotage-account—in such manner as Government shall direct:

Provided always that the pilots and other officers and servants employed in the pilot-service shall have no claim upon any balance to the credit of the pilotage-account or upon the profits or interest arising from any investment thereof, or of any portion thereof, except to such extent as payments to them, or in their behalf, may from time to time be sanctioned by the Board under clauses (2) and (3) of section 50. Proviso as to claims of pilots, &c., on balance of pilotage-account.

The interest and profits accruing and the loss, if any, arising from such investments as aforesaid shall be respectively credited and debited to the account to which the balance invested belongs. Interest, &c., how credited and debited.

Annual estimates.

52. The Chairman shall, at a special meeting to be held in the month of February in each year, lay before the Board an estimate of the income and of the expenditure of the Board for the year commencing on the 1st day of April then next ensuing in such detail and form as the Board shall from time to time direct. Chairman to submit annual estimate of income and expenditure.

Such estimate shall be completed and printed, and a copy thereof sent by post or otherwise to each trustee, at least ten clear days prior to the meeting before which the estimate is to be laid.

53. The Board shall consider the estimate so submitted to them, and shall sanction the same either unaltered, or subject to such alterations as they shall think fit. Board to revise and sanction estimate.

54. The estimate, as sanctioned by the Board, shall be submitted to the Government, which may, if it thinks fit, at any time within one month after receipt of the same, disallow such estimate, or any portion thereof, and return Estimate to be submitted to Governor.

the same for amendment. The Board shall, if the estimate is so returned by Government, forthwith proceed to amend the same, and shall re-submit the estimate so amended to the Government.

Supplementary estimates may be made when necessary.

55. The Board may, at any time during the year for which any such estimate has been sanctioned, cause a supplementary estimate to be prepared and submitted to them. Every such supplementary estimate shall be considered and sanctioned by the Board and submitted to the Government in the same manner as if it were an original annual estimate.

No expenditure above Rs 5,000 to be incurred unless sanctioned in estimate.

56. Save in cases of pressing emergency, no sum exceeding five thousand rupees shall be expended by or on behalf of the Board, unless such sum is included in some estimate at the time in force which has been finally approved by Government.

If any sum exceeding five thousand rupees in amount is so expended on a pressing emergency, the circumstances shall be forthwith reported by the Chairman to the Government, together with an explanation of the way in which it is proposed by the Board to cover such extra expenditure.

Estimate prepared under Bombay Act I, 1873, to be accepted for purposes of Act.

57. Any estimate prepared by the trustees appointed under the Bombay Port Trust Act, 1873, and approved by Government under section 53 of that Act, and which but for the passing of this Act would have force and effect, shall be deemed to have been duly prepared, passed and approved under this Act.

Audit of Accounts.

Accounts to be audited and examined

58. The accounts of the receipts and expenditure of the Board shall, twice in every year, be laid before Government, and shall be audited and examined by such auditors as shall, from time to time, be appointed by Government.

Auditors to have power to call for books, &c.

For the purposes of such audit and examination, the auditors may, by summons in writing, require the production before them of all books, deeds, contracts, vouchers and all other documents and papers which they may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents or papers to appear before them at any such audit and examination, or adjournment thereof, and to make and sign a declaration with respect to the same.

Remuneration to be fixed by Government; report to be published

The auditors shall be paid by the Board such remuneration as Government shall determine, the amount being debited to the general account, and within fourteen days after the audit and examination shall have been completed, the auditors shall forward their report upon the accounts to the Board, who shall cause the same to be published, together with an abstract of the accounts, in the *Bombay Government Gazette*.

Fulfilment of Board's Liabilities.

Board bound

59. It shall be incumbent on the Board to make ample provision year by

year, either by retrenchment of expenditure or by increase of rates, for the due fulfilment of all their liabilities and for the efficient administration of this Act; and in the event of any deficiency being at any time anticipated in the income of the Board, they shall forthwith take such measures as shall seem most expedient for preventing such deficiency. to provide for fulfilment of liabilities.

60. If it shall at any time appear to the Governor in Council that sufficient provision is not being made by the Board to meet their liabilities, or if default shall at any time be made by the Board in any payment of interest which they are required to make under section 34, the Governor in Council may require the Board, by an order in writing signed by a Secretary to Government, to increase, subject to his sanction and to the provisions of section 43, to such extent and for such period as shall appear necessary, the rates or any of the rates for the time being in force under the said section. In default, Governor may require Board to increase rates;

If within fifteen days after receipt of such order the Board do not comply with the same, the Governor in Council may, by notification in the *Bombay Government Gazette*, increase the said rates or any of them, and such notification shall have the same force as if a new scale of rates to the same effect had been duly framed, sanctioned and published under section 43. and on Board's failing, may himself increase them.

And for the purpose of realizing any interest which has not been paid by the Board when due, in accordance with section 34, the Governor in Council may, by an order published in the *Bombay Government Gazette*, appoint some person to receive the rates, charges, and other income which the Board may be entitled to receive, or any portion thereof, and to apply the same in discharge of the amount due and of all expenses authorized by Government in respect of the appointment of such person and of the recovery by him of the said rates, charges and income: and the person so appointed shall have, for the recovery of the said rates, charges, or other income, all and singular the powers and authorities conferred by this Act on the Board for the said purpose. Governor may also appoint receiver to recover portion of Board's income.

VII.—Of the Powers and Functions of the Board.

Recovery of Rates.

61. For the amount of all rates leviable under this Act in respect of any goods, the Board shall have a lien on such goods, and shall be entitled to seize and detain the same until such rates are fully paid. Rates in respect of goods to be landed shall become payable immediately on the landing of such goods. Rates in respect of goods to be removed from the premises of the Board, or to be shipped for export, shall be payable before such goods are removed or shipped. The lien for such rates shall have priority over all other liens and claims, except for general average, for the ship-owner's lien for freight upon Recovery of rates in arrears.

the said goods (where such lien exists and has been preserved in the manner hereinafter provided), for primage and for money payable to Her Majesty or to the Secretary of State for India in Council

Lien for freight preserved after landing if notice be given

62 If the master or owner of any vessel, or his agent, at or before the time of landing from such vessel any goods at any wharf, dock or pier in the possession of the Board, shall give to the Board notice, in writing, that such goods are to remain subject to a lien for freight or other charges payable to the ship-owner, to an amount to be mentioned in such notice, such goods shall continue liable to the same lien, if any, for such charges as they were subject to before the landing thereof Such goods shall be retained either in the warehouses and sheds of the Board, or, with the consent of the chief customs-authority of the Presidency, in the public warehouses, at the risk and expense of the owners of the said goods until the lien is discharged as hereinafter mentioned

Discharge of lien by payment or release

63 Upon production to the proper officer of the Board of a document purporting to be a receipt for the amount claimed as due, or a release of freight from the person by or on whose behalf such notice shall have been given, it shall be lawful for the Board to permit such goods to be removed without regard to such lien, provided they shall have used reasonable care in respect to the authenticity of such document

If rates not paid, or lien for freight not discharged goods may be sold after two months

64 If the rates payable to the Board in respect of any goods are not paid, or if the lien of the ship-owner for freight, when such notice as aforesaid has been given, is not discharged, the Board may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, shall, at the expiration of two months from the time when the goods were placed in their custody, or if the goods are of a perishable nature, at such earlier period (being not less than twenty-four hours after the landing of the goods) as they shall think fit, sell by public auction the said goods, or so much as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

Before making such sale, ten days' notice of the same shall be given by publication thereof in the *Bombay Government Gazette*, unless the goods are of so perishable a nature as, in the opinion of the officer aforesaid, to render their immediate sale necessary or advisable, in which event such notice shall be given as the urgency of the case admits of

If the address of the owner of the goods has been stated on the manifest of the cargo or in any of the documents which have come into the hands of the Board, or is otherwise known, notice shall also be given to the owner of the goods by letter delivered at such address, or sent by post, but the title of a *bonâ fide* purchaser of such goods shall not be invalidated by reason of the

omission to send the notice hereinbefore mentioned, nor shall any such purchaser be bound to inquire whether such notice has been sent.

Application of proceeds of sale.

65. In every case of any such sale as aforesaid, the moneys received from the sale shall be applied as follows :—

1*stly*,—in payment, according to their respective priorities, of the liens and claims excepted in section 61 from the priority of the lien of the Board for rates;

2*ndly*,—in payment of the expenses of the sale ;

3*rdly*,—in payment of the rates and expenses due to the Board in respect thereof.

The surplus, if any, shall be paid to the owner of the goods or his agent on his applying for the same, provided such application be made within one year from the sale of the goods, or good reason be shown why such application was not so made, to the satisfaction of the Board ; and in case such application shall not be so made, nor reason shown, such surplus shall be applied by the Board to the purposes of this Act.

Power to distrain for non-payment of rates, &c.

66. If the master of any vessel in respect of which any rates, charges or penalties shall be payable under this Act or any bye-laws made in pursuance hereof, shall refuse or neglect to pay the same, or any part thereof, on demand, it shall be lawful for the Board to distrain or arrest, of their own authority, such vessel, and the tackle, apparel or furniture belonging thereto, or any part thereof, and detain the same until the amount so due shall be paid; and, in case any part of the said rates or penalties or of the costs of the distress or arrest, or of the keeping of the same, shall remain unpaid for the space of fifteen days next after any such distress or arrest shall have been so made, the Board may cause the vessel, or other thing so distrained or arrested, to be sold, and with the proceeds of such sale may satisfy such tolls, dues, rates, penalties or charges and costs of sale remaining unpaid, rendering the surplus (if any) to the master of such vessel on demand.

Port-clearance not granted till rates, &c., are paid.

67. If the Board shall give to the officer of Government whose duty it is to grant the port-clearance of any vessel a notice stating that an amount therein specified is due in respect of rates, charges or penalties chargeable under this Act or any bye-laws or orders made in pursuance hereof, against such vessel, or the owner or master of such vessel, in respect thereof, such officer shall not grant such port-clearance until the amount so chargeable shall have been paid.

Works.

Works to be executed under Act.

68. The works to be undertaken by the Board under this Act may include—

(1) wharves, docks and piers within the port or on the foreshore of the

port, with all necessary and convenient arches, drains, fences, roads, railways and approaches;

(2) tramways, warehouses, sheds, engines and other appliances for conveying, receiving, and storing goods landed, or to be shipped, or otherwise;

(3) light-houses, light-ships, beacons, pilot-boats and other appliances necessary for the safe navigation of the port and of the approaches thereto within a distance of three miles from the limits of the port;

(4) laying down moorings, and the erection of cranes, scales and all means and appliances necessary for berthing, loading and unloading vessels;

(5) reclaiming, excavating, enclosing and raising any part of the foreshore of the Port vested in the Board, when such reclamation, excavation, enclosure or raising may be necessary for any of the purposes of this Act;

(6) the construction and application of dredges and other machines for cleaning, deepening and improving any portion of the port or foreshore aforesaid;

(7) the construction of such works, without the limits of the port, as shall be necessary for the protection of works executed by the Board within the port, and all such other works and appliances as may, in the opinion of the Board, be necessary for carrying out the purposes of this Act:

Procedure before commencement of new work.

Provided always that no new work, the estimated cost of which exceeds two thousand rupees, shall be commenced by the Board, nor shall any contract be entered into by the Board in respect of any such new work, until a plan and estimate of such work shall have been submitted to the Board and considered and approved by them; nor shall any new work the estimated cost of which exceeds two lákhs of rupees be commenced until such plan and estimate shall have been submitted to and approved by Government.

Regulation of use of Wharves, &c.

Saving of—

69. Nothing in this Act shall be deemed to affect—

rights of Government to use wharves, &c., for collecting duties;

(*a*) the right of Government to collect customs-duties, or of the Municipal Corporation of the city of Bombay to collect town-duties, at any wharf, pier or dock in the possession of the Board, or

and of powers of customs-officers.

(*b*) any power or authority vested in the customs-authorities of the Presidency under any law for the time being in force for the administration of sea-customs.

Places to be

70. Whenever any wharf, pier or dock in the possession of the Board shall

be appointed, under the provisions of any Act for the time being in force for the administration of sea-customs, a wharf or place for the landing and shipping of goods within the meaning of such Act, — set apart for use of customs officers on wharves, &c.,

and whenever any warehouse, or portion of a warehouse, in the possession of the Board shall be appointed or licensed under the provisions of any such Act as a warehouse for the deposit of dutiable goods on the first importation thereof without payment of duty,

the Board shall set apart and maintain such place on or adjoining such wharf, dock or pier, or in such warehouse, or portion of a warehouse, for the use of the officers of customs, as Government shall in that behalf approve or appoint,

but all rates payable in respect of any wharf, pier or warehouse, or portion thereof, so set apart, or for the storage of goods thereupon or therein, shall be paid to the Board or to such person or persons as they may appoint to receive the same, notwithstanding that the same has been so set apart, — but right of Board to levy rates not affected,

and if any portion of the Customs Bonded Warehouse shall, with the consent of Government, be appointed a public warehouse for the deposit of dutiable goods as aforesaid, the Board shall set apart and maintain such portion thereof in good order for the said purpose, but the chief customs-authority shall pay to the Board from time to time, as may be determined by Government, all surplus-income derived from the use of such portion of the said Customs Bonded Warehouse as a public warehouse as aforesaid after payment of all charges and expenses of management. — surplus income derived from portion of Customs Bonded Warehouse used as public warehouse to be paid to Board

71 The Board shall provide such number of public landing places as shall, in the opinion of Government, be sufficient, from and upon which the public shall be permitted to embark and to land free of charge. — Board to provide free landing places

Control of Pilots

72 The Board shall have the right and privilege of maintaining pilots for the navigation of vessels at the port, and all fees for pilotage shall be paid to the Board Provided that no person shall be appointed to be a pilot by the Board who is not for the time being authorized by Government, under the provisions of the Indian Ports Act, 1875, to pilot vessels — Trustees vested with right and privilege of maintaining pilots

The Board may also, from time to time, make such bye-laws and regulations as they shall think fit—

(*a*) for fixing and regulating the wages and allowances for pilotage to be received by pilots, and

(*b*) for regulating the behaviour and conduct of pilots,

and shall enforce the observance of such bye-laws and regulations, by the imposition of pecuniary penalties not exceeding two hundred rupees for each

offence, or by suspension or deprivation of appointment, or otherwise, as to them may appear expedient: Provided that such bye-laws shall first have been approved by Government, and published in the manner directed by section 74.

Bye-laws.

Trustees empowered to make bye-laws.

73. The Board may, from time to time, make bye-laws—

(*a*) for the guidance of persons employed by them under this Act;

(*b*) for the safe and convenient use of the wharves, docks, piers, warehouses, tramways and other works constructed or acquired by them under this Act;

(*c*) for the use of the public landing-places constructed by or belonging to them;

(*d*) for the reception and removal of goods brought within the premises of the Board;

(*e*) for keeping clean the harbour and basins and the works of the Board, and for preventing filth or rubbish being thrown therein or thereon;

(*f*) for settling the mode of the payment of the rates and charges leviable under this Act;

(*g*) for regulating, declaring and defining the wharves, docks and piers vested in the Board on which goods shall be landed from, and shipped on board, vessels; and

(*h*) generally for carrying out the purposes of this Act.

The Board may also, from time to time, vary, alter or revoke any such bye-laws so made by them.

Approval and publication of bye-laws.

74. No bye-law or alteration or revocation of a bye-law, shall have effect until the same shall have been approved by Government, and such approval shall have been published in the *Bombay Government Gazette*; and no bye-law or alteration or revocation of a bye-law shall be approved by Government until the same shall have been published for three weeks successively in the said Gazette.

Cancelment by Government.

It shall be lawful for Government at any time by notification in the said Gazette to cancel any bye-law or regulation made and published under the provisions of this and of the last two preceding sections.

Penalties for infringement of bye-laws.

75. The Board may, in the bye-laws made under section 73, prescribe such penalties as they shall deem fit for the infringement of the same: Provided that no penalty for any one infringement of a bye-law shall exceed one hundred rupees, nor, in case of a continuing infringement, shall any penalty exceed fifty rupees per diem for every day after notice of such infringement shall have been given by the Board to the person guilty of such infringement.

Bye-laws

76. The Board shall cause the said bye-laws and the scales of rates and

charges leviable by the Board, to be printed in the English, Maráthí and Gujarátí languages, and to be hung up at the several wharves, docks and piers, and other convenient places on the premises of the Board. and scales of rates and charges to be exhibited.

77. Until bye-laws are framed by the Board under section 73, the bye-laws framed by the trustees appointed under the Bombay Port Trust Act, 1873, under section 85 of that Act, and in force when this Act comes into operation, shall be deemed to have been framed under the said section 73 of this Act. Continuance of bye-laws framed under Bombay Act I, 1873.

VIII.—Penalties.

78. Any person who, being a trustee or an officer or servant of the Board, shall acquire, directly or indirectly, any share or interest in any contract or employment with, by, or on behalf of the Board, shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code: For being interested in contracts with Board.

Provided that nothing in this section shall apply to a person

(*a*) having a share in any Joint Stock Company which shall contract with, or be employed by, or on behalf of, the Board, or

(*b*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted, or,

(*c*) interested in any loan of money to the Board.

79. Any person employed under this Act, not being a public servant within the meaning of section 21 of the Indian Penal Code, who shall accept or obtain, or agree to accept or attempt to obtain, from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing, or forbearing to do, any official act, or for showing, or forbearing to show, in the exercise of his official functions, favour or disfavour to any person; or for rendering, or attempting to render, any service or disservice to any person with the Board or with any public servant as such, or with the Government, shall be liable to the same punishment as is provided by the Indian Penal Code in the case of the like offence committed by a public servant. For obtaining illegal gratification.

80. Any person who shall refuse or neglect to appear before any auditor of accounts, or to produce any books, deeds, contracts, accounts, vouchers, documents or papers, or to make or sign any declaration when duly required so to do by any auditor of accounts under section 58, shall be punished for every such neglect or refusal with fine which may extend to one hundred rupees. For refusing or neglecting to appear before Auditor, &c.

81. Any person, other than the Board or the Conservator of the port, who shall, without first obtaining the written consent of Government to his so For setting up erection below high-

water mark in port.

doing, make, set up or fix, below high-water mark within the port, any wharf, quay, pier, mooring or other erection whatsoever, shall be punished with fine which may extend to one thousand rupees, and to a further fine which may extend to one hundred rupees for every day during which he shall permit such wharf, quay, pier, mooring or other erection to remain after notice to remove the same has been given to him.

Any such wharf, quay, pier, mooring or other erection may be removed by the Board, and the person who made, set up, or fixed the same, shall also be liable to pay all expenses which may be incurred by the Board in the removal thereof.

For understating quantity or weight of goods, &c.

82. If it be found when goods are imported at, or exported from, any wharf, dock or pier in the possession of the Board, that the weight or quantity of such goods, or the tonnage of any vessel carrying such goods, has been understated in any document presented to any officer of the Board for the purpose of enabling him to determine the rates or charges payable in respect of the said goods or vessel, the consignee in the case of goods imported, and the consignor in the case of goods exported, shall be liable to pay to the Board such sum not exceeding twice the proper rates or charges on the weight or quantity of goods or amount of tonnage so understated as may be determined by the Board, and the said sum shall on the application of the Board be recoverable under a Presidency Magistrate's warrant as if it were a fine inflicted by such Magistrate.

For evading rates, &c.

83. Any person who removes, or attempts to remove, or abets within the meaning of the Indian Penal Code the removal of, any goods, vessel, animal or vehicle with the intention of evading payment of the rates or charges lawfully due in respect thereof to the Board, shall be punished with fine which may extend to fifty rupees.

Recovery of value of damage to property of Board.

84. If, through the negligence of any person having the guidance or command of any vessel, or of any of the mariners or persons employed on such vessel, damage shall be caused to any wharf, dock, pier or other work in the possession of the Board, the amount of such damage shall, on the application of the Board, be recoverable, together with the cost of such recovery, by distress and sale, under a Presidency Magistrate's warrant, of a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores belonging to such vessel: Provided that no such warrant shall issue until the master of such vessel has been duly summoned to appear, or, if he appears, until he has been heard; and provided also that no such warrant shall issue if the vessel was at the time under the orders of a duly authorized officer in the pilot-service of the port or of the Master-attendant's Department.

Cognizance of

85. Except as is otherwise provided in section 82, all offences against this

Act or against any bye-law made under section 73 shall be cognizable by a Presidency Magistrate. Offences.

All fines and damages recovered from any offender, or by any distress under section 84, shall be paid to the Board.

IX.—Miscellaneous.

86. Whenever any day by this Act appointed for any purpose shall happen to be a Sunday or a public holiday, the business appointed to be done on such day shall be done on the day next after such Sunday or public holiday. Provision when day appointed for any purpose falls on Sunday or holiday.

87. No suit or other proceeding shall be commenced against any person for anything done, or purporting to have been done, in pursuance of this Act without giving to such person one month's previous notice in writing of the intended suit or other proceeding, and of the cause thereof, nor after six months from the accrual of the cause of such suit or other proceeding. Limitation of suits, &c.

The Board shall not be responsible for any mis-feasance, mal-feasance or non-feasance of any officer or servant appointed under this Act;

nor, if they should be appointed by Government, under the Indian Ports Act, 1875, Conservators of the port, for any mis-feasance, mal-feasance or non-feasance of any Deputy Conservator, Master-attendant or Harbour-master, or of any assistant or deputy of any such officer, or of any person acting under the authority or direction of or in subordination to any such officer, assistant or deputy;

nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Board, which may be used by such vessel;

nor shall the Board, or any of the said officers or servants, be liable in damages for any act *bonâ fide* done, or ordered to be done, by them in pursuance of this Act.

SCHEDULE A.

Properties referred to in section 29.

No.	Names of Holders.	General Description of Properties.
1	The Sassoon Dock Company.	All the property at Colába, belonging to the Sassoon Dock Company, known as the Sassoon Dock, together with the land on the west of the Colába road appertaining thereto, and all rights, privileges and powers enjoyed or claimed by the Sassoon Dock Company in connection therewith.

No	Names of Holders	General Description of Properties.
2	The New Colába Company.	A strip of land, varying from 25 to 50 feet or thereabouts in width, running along the whole foreshore of the estate of the New Colába Company, situated at Colába, commencing from the Colába road at the point where the properties of the New Colába Company and the Sassoon Dock Company adjoin, and thence continuing alongside the Bandar-wall of the Victoria Basin and the Harbour-face up to the junction of the New Colába Company's property with the Gun-carriage Reclamation; again commencing at the junction of the New Colába Company's property and the property of the Apollo Press Company and running along the Harbour-face and alongside the Arthur Basin up to the Colába road; together with the whole of the Arthur Bandar and the ground adjacent thereto, situate within Customs-limits, together with all rights and privileges enjoyed or claimed by the New Colába Company in respect of the strip of land, Bandar, and ground aforesaid, and of the Victoria and Arthur Basins.
3	The Apollo Press Company.	All the land at Colába, the property of the Apollo Press Company, and known as the Jamsetjee Bandar and Reclamation, including all rights and privileges enjoyed or claimed by the Apollo Press Company in respect of the said land and of the Gun-carriage Basin, together with all rights and privileges enjoyed or claimed by the Apollo Press Company at or in respect of any of the Bandars belonging to the New Colába Company.
4	The Mázgaon Land Company.	All the land at Mázgaon, known as the Powder-works Bandar, the property of the Mázgaon Land Company, lying between the Harbour and the western side of the road running from the Harbour-Defences Office to Tank Bandar, together with all rights and privileges enjoyed or claimed by the Mázgaon Land Company in respect of the said land.
5	The Frere Land Company.	All the land north of Tank Bandar, the property of the Frere Land Company, bounded towards the west by the Ghorupdavi road and towards the north and west by the Jackaria Bandar road, together with all rights and privileges enjoyed or claimed by the Frere Land Company in respect of the said land.

No	Names of Holders	General Description of Properties
6	Hajee Ismael Hajee Hubeeb.	All the land and fish-ponds bounded by the Harbour on the east and by the Jackaria Bandar road and the Siwri road on the west and north, by the property of the Frere Land Company on the south, and by the property of the trustees of the port on the north, known as Siwri Bandar, together with all rights and privileges enjoyed or claimed in respect of the said land by the respective holders thereof
7	Hajee Jackaria Noor Mahomed	
8	Manockjee Adurjee	
9	Aitwar Lukdee	
10	Muncherjee Framjee Cama	
11	Dadabhoy Hormusjee	
12	Hajee Essa Hajee Fuzla.	
13	Dorabjee Nusserwanjee	
14	Byramjee Cowasjee	
15	Esmail Mahomed Songaji.	

SCHEDULE B (See section 30)

Form of Security

THE TRUSTEES OF THE PORT OF BOMBAY

No

Under the provisions of the Bombay Port Trust Act, 1879, we, the Trustees of the Port of Bombay, do hereby for ourselves and our successors promise and agree to pay to or order, the sum of rupees value received, such payment to be made on demand at the office of the Accountant General, Bombay, after the expiration of three months' notice of payment to be given by the Chairman of the said Trustees in the *Bombay Government Gazette* We further promise and agree for ourselves and our successors to pay to the said or order, interest on the said sum of rupees from the day of until the expiration of three months after such notice of payment as aforesaid, such interest to be at the rate of four per centum per annum and to be payable on demand at the office aforesaid half-yearly on the 1st day of April and the 1st day of October in every year until the expiration of three months from the date of such notice of payment as aforesaid, when the amount of interest then due hereunder will be payable with

the principal on demand at the office aforesaid and (such notice being considered as equivalent to a tender of payment at the period appointed for the discharge hereof) all further interest shall cease.

Given under our common seal this day of 187 .

(*Signature of the Chairman and two Trustees*)

Seal *of the Corporation.*

SCHEDULE C. (SEE SECTION 33)

Statement of Capital-Debts of the Board due to the Secretary of State for India in Council.

On account of what Property, &c.	Bearing interest.	Not bearing interest.	Total.
	Rs A. P	Rs A P	Rs A. P.
Elphinstone Estate, purchase-price	1,85,91,696 12 8	...	
Elphinstone Estate, expended in 11 months to 31st March 1871 ..	7,47,370 2 10	...	
Elphinstone, Estate, expended in 12 months to 31st March 1872	2,75,090 8 6	...	
Elphinstone Estate, Troop Siding, Carnac Bandar ...	39,790 3 2	...	1,96,53,847 11 2
Moody Bay Reclamation (portion east of Frere Road), expended in year to 31st March 1871 ...	3,57,596 8 8	... ...	
Moody Bay Reclamation (portion east of Frere Road), expended in year to 31st March 1872 ...	2,01 345 6 4	...	5,58,941 15 0
Apollo Bay Reclamation, expended in year to 31st March 1872	9,752 11 11	..	9,752 11 11
Wellington Reclamation, expended in year to 31st March 1872	934 12 8		934 12 8
Apollo Pier, expended prior to 31st March 1870		2,23,038 12 2	
Apollo Pier, expended in year to 31st March 1871	1,38,173 7 8	...	
Apollo Pier expended in year to 31st March 1872 ..	61,825 9 2		4,23,037 13 0
Tank Bandar expended in year to 31st March 1871	182 0 0	.	182 0 0
Customs Bonded Warehouse } Apollo Bonded Warehouse		5,50,000 0 0	
Customs Bonded Warehouse } Custom house Godown		25,165 0 0	5,75,165 0 0

On account of what Property, &c.	Bearing Interest.			Not bearing Interest.			Total.		
	Rs.	A.	P.	Rs,	A	P.	Rs.	A.	P.
Kussara Bandar	.....			5,285	0	0	5,285	0	0
Saw Mill Property, Tank Bandar ...	.....			41,189	14	4	41,189	14	4
Expended on the above properties between 31st March 1872 and the passing of Bombay Act 1 of 1873	1,45,053	5	4	.....			1,45,053	5	4
Balance of interest unpaid at 31st March 1871	2,75,273	4	7						
Balance of interest unpaid at 31st March 1872	1,50,233	3	2	.....			6,02,042	10	0
Balance of interest unpaid for the period from 1st April 1872 until the date on which Bombay Act I of 1873 came into operation ...	1,76,536	2	8						
Total Rs. ...	2,11,70,754	2	11	8,44,678	10	6	2,20,15,432	13	5

SCHEDULE D.

(See section 42.)

Form of Debenture.

The TRUSTEES of the PORT of BOMBAY.

The 18

No.

By virtue of the Act No. of 1879 of the Council of the Governor of Bombay for making Laws and Regulations, entitled "The Bombay Port Trust Act, 1879," we, the trustees of the port of Bombay, in consideration of the sum of rupees paid to us by *A. B.*, of promise to pay to the said , or order, the said sum of rupees after the date hereof, together with interest at the rate of per centum per annum, payable half-yearly on the day of and the day of

Given under our corporate seal this day of 187 .

(*Signatures of the Chairman and two Trustees.*)

Seal *of the Corporation.*

ACT No. VII OF 1879.

Received the Governor's assent on the 4th of August, 1879, and the Governor General's assent on the 19th of September, 1879, and published by the Governor on the 2nd of October, 1879.

An Act to provide for Irrigation in the Bombay Presidency.

Preamble. WHEREAS it is necessary to make provision for the construction, maintenance and regulation of canals, for the supply of water therefrom and for the levy of rates for water so supplied, in the Bombay Presidency; It is enacted as follows:—

PART I.—PRELIMINARY.

Short title. 1. This Act may be called "The Bombay Irrigation Act, 1879:"

Local extent. It extends to the whole of the Presidency of Bombay, except the city of Bombay.

Sections 55, 101 and 105 of Bombay Land-Revenue Code, 1879, amended. 2. In section 55 of the Bombay Land-Revenue Code, 1879, for the words "or which has been made available in consequence of the construction, improvement or repair of any irrigational or other work by, or at the instance of, Government," the words "and in respect of which no rate is leviable under the Bombay Irrigation Act, 1879," shall be substituted;

and in section 101 of the said Code, for the word "leviable," the word "levied" shall be substituted, and the words "or under the Bombay Irrigation Act, 1879," shall be inserted after the figures "55";

and to section 105 of the said Code, the words "or of the Bombay Irrigation Act, 1879," shall be added.

Interpretation-clause. 3. In this Act, unless there be something repugnant in the subject or context,—

"Canal" (1)—"canal" includes—

(*a*) all canals, channels, pipes and reservoirs constructed, maintained or controlled by Government for the supply or storage of water;

(*b*) all works, embankments, structures and supply and escape-channels connected with such canals, channels, pipes or reservoirs, and all roads constructed for the purpose of facilitating the construction or maintenance of such canals, channels, pipes or reservoirs;

(*c*) all water-courses, drainage-works and flood-embankments as hereinafter respectively defined;

(*d*) any part of a river, stream, lake, natural collection of water or natural drainage-channel, to which the Governor in Council may apply the provisions of section five, or of which the water has been applied

or used before the passing of this Act for the purpose of any existing canal;

(*c*)—all land belonging to Government which is situate on a bank of any canal as hereinbefore defined, and which has been appropriated, under the orders of Government, for the purposes of such canal;

(2)—"water-course" means any channel or pipe not maintained at the cost of Government, which is supplied with water from a canal, and includes all subsidiary works connected with any such channel or pipe, except the sluice or outlet through which water is supplied from a canal to such channel or pipe; "Water-course."

(3)—"drainage-work" means any work in connection with a system of irrigation or reclamation made or improved by the Government for the purpose of the drainage of the country, whether under the provisions of section fifteen or otherwise, and includes escape-channels from a canal, dams, weirs, embankments, sluices, groins and other works connected therewith, but does not include works for the removal of sewage from towns; "Drainage-work."

(4)—"flood-embankment" means any embankment constructed or maintained by Government in connection with any system of irrigation or reclamation-works for the protection of lands from inundation, or which may be declared by the Governor in Council to be maintained in connection with any such system, and includes all groins, spurs, dams and other protective works connected with such embankments; "Flood-embankment."

(5)—"Collector" means the head revenue-officer of a district, and includes any officer appointed by the Governor in Council to exercise all or any of the powers of a Collector under this Act; "Collector."

(6)—"canal-officer" means any officer lawfully appointed or invested with powers under section four; "Canal-officer."

(7)—"owner" includes every person having a joint interest in the ownership of the thing specified; and all rights and obligations which attach to an owner under the provisions of this Act shall attach jointly and severally to every person having such joint interest in the ownership. "Owner."

4. Government or, subject to such orders as may from time to time be passed by Government, any officer of Government whom the Governor in Council empowers in this behalf, may Appointment of canal-officers.

(*a*) appoint such officers with such designations, and assign to them respectively such powers and duties, under this Act as Government or such officer may deem fit,

(*b*) invest any Government-officer in any department, either personally, or in right of his office, or any other person, with such powers, and impose upon him such duties, under this Act, as Government or such officer may deem fit:

Proviso

Provided that any assignment of, or investment with, powers or duties made under this section may at any time be cancelled or varied by the authority who made it.

PART II.—Of the Construction and Maintenance of Canals.

Application of Water for purposes of Canals.

Notification when water-supply to be applied for purposes of canal.

5. Whenever it appears expedient to the Governor in Council that the water of any river or stream flowing in a natural channel, or of any lake or any other natural collection of still water should be applied or used by the Government for the purpose of any existing or projected canal;

the Governor in Council may, by notification in the *Bombay Government Gazette*, declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

Powers of Entry on Land, &c.

Powers of canal-officers for purpose of so applying water-supply.

6. At any time after the day so named, any canal-officer duly empowered in this behalf may enter on any land, remove any obstruction, close any channel and do any other thing necessary for such application or use of the said water, and for such purpose may take with him, or depute or employ, such subordinates and other persons as he deems fit.

Entry for enquiry.

7. Whenever it shall be necessary to make any enquiry or examination in connection with a projected canal, or with the maintenance of an existing canal, any canal-officer duly empowered in this behalf, and any person acting under the general or special order of any such canal-officer, may

(*a*) enter upon such land as he may think necessary for the purpose, and

(*b*) exercise all powers and do all things in respect of such land as he might exercise and do if the Government had issued a notification under the provisions of section four of the Land Acquisition Act, 1870, to the effect that land in that locality is likely to be needed for a public purpose, and

(*c*) set up and maintain water-gauges and do all other things necessary for the prosecution of such enquiry and examination.

Power to inspect and regulate water-supply.

8. Any canal-officer duly empowered in this behalf, and any person acting under the general or special order of any such canal-officer, may enter upon any land, building or water-course, on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the land irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of the canal from which such water is supplied.

Power to enter for repairs, and to prevent accidents

9. In case of any accident being apprehended or happening to a canal, any canal-officer duly empowered in this behalf, and any person acting under the general or special order of any such canal-officer, may enter upon any land adjacent to such canal, and may take trees and other materials, and execute all works which may be necessary for the purpose of preventing such accident or repairing any damage done.

Notice to occupier of building, &c.

10. When a canal-officer or other person proposes, under the provisions of any of the three last preceding sections, to enter into any building or enclosed court or garden attached to a dwelling-house, not supplied with water from a canal, and not adjacent to a flood-embankment, he shall previously give to the occupier of such building, court or garden such reasonable notice as the urgency of the case may allow.

Canal Crossings.

Means of crossing canals and of drainage to be provided.

11. Suitable means of crossing canals shall be provided at such places as the Governor in Council thinks necessary for the reasonable convenience of the inhabitants of the adjacent land; and suitable bridges, culverts or other works shall be constructed to prevent the drainage of the adjacent land being obstructed by any canal.

Removal of Obstructions to Drainage.

Government may prohibit formation of obstructions of rivers, &c., within certain limits.

12. Whenever it appears to the Governor in Council that injury to the public health, or public convenience, or to any canal or to any land for which irrigation from a canal is available, has arisen or may arise from the obstruction of any river, stream or natural drainage-course, the Governor in Council may, by notification published in the *Bombay Government Gazette*, prohibit, within limits to be defined in such notification, the formation of any such obstruction, or may, within such limits, order the removal or other modification of such obstruction.

Thereupon so much of the said river, stream or natural drainage-channel as is comprised within such limits shall be held to be a drainage-work as defined in section three.

Canal-officer may issue order to person causing obstruction.

13. Any canal-officer duly empowered in this behalf may, after such publication, issue an order to any person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in such order.

Canal-officer may cause obstruction to be removed.

14. If, within the time so fixed, such person does not comply with the order, the canal-officer may cause the obstruction to be removed or modified; and if the person to whom the order was issued does not, when called upon, pay the expenses of such removal or modification, such expenses shall be recoverable by the Collector as an arrear of land-revenue.

Construction of Drainage-works.

When drainage-works are necessary, Government may order scheme to be carried out.

15. Whenever it appears to the Governor in Council that any drainage-work is necessary for the public health or for the improvement of the proper cultivation or irrigation of any land, or that protection from floods or other accumulations of water, or from erosion by a river, is required for any land, the Governor in Council may cause a scheme for such work to be drawn up and carried into execution,

and the person authorized by the Governor in Council to draw up and execute such scheme may exercise in connection therewith the powers conferred on canal-officers by sections seven, eight and nine, and shall be liable to the obligations imposed upon canal-officers by sections ten and thirty-four.

PART III.—Of Water-courses.

Construction of new Water-courses.

Construction of new water-courses by private arrangement.

16. Any person may, with the permission of a canal-officer duly empowered to grant such permission, construct a new water-course if he has obtained the consent of the holder of the land required therefor.

Application for construction by canal-officer of new water-course.

17. Any person desiring to construct a new water-course, but being unable or unwilling to construct it under a private arrangement with the holder of the land required for the same, may apply, in writing, to any canal-officer duly empowered to receive such applications, stating

(1)—that he is ready to defray all the expenses necessary for acquiring the land and constructing such water-course;

(2)—that he desires the said canal-officer in his behalf and at his cost to do all things necessary for constructing such water-course.

Procedure when canal-officer considers construction of water-course expedient.

18. If the canal-officer considers the construction of such water-course expedient, he may call upon the applicant to deposit any part of the expense such officer may consider necessary,

and, upon such deposit being made, shall cause enquiry to be made into the most suitable alignment for the said water-course,

and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof,

and shall forthwith publish a notification in every village through which the water-course is proposed to be taken, that so much of such land as is situated within such village has been so marked out,

and shall send a copy of such notification to the Collector of every district in which such land is situated, for publication on such land.

Application

The said notification shall also call upon any person who wishes to share in

the ownership of such water-course to make his application in that respect to the canal-officer within thirty days of the publication of such notification. by person wishing to be joint owner.

If any such applicant appears, and his application is admitted, he shall be liable to pay his share in the construction of such water-course, and in the cost of acquiring the land for the same, and shall be an owner of such water-course when constructed. If application admitted, applicant liable for share of cost.

19. On receipt of copy of such notification, the Collector shall proceed to acquire such land under the provisions of the Land Acquisition Act, 1870, as if a declaration had been issued by the Government for the acquisition thereof under section six of that Act, and as if the Government had thereupon directed the Collector to take order for the acquisition of such land under section seven of the said Act, and (if necessary) as if the Government had issued orders for summary possession being taken under section seventeen of the said Act. Collector to acquire land.

20. On being put in possession of the land, the canal-officer shall construct the required water-course; and on its completion shall give to the owner notice thereof, and of any sum payable by him on account of the cost of acquiring the land and constructing the water-course. On such notice being given, such sum shall be due from the owner to the canal-officer. On receipt of payment in full of all expenses incurred, the canal-officer shall make over possession of such water-course to such owner. Procedure after construction of water-course.

Rights and Obligations of Owners of Water-courses.

21. Every owner of a water-course shall be bound— Obligations of owner of water-course.

(*a*) to construct and maintain all works necessary for the passage across such water-course, of canals, water-courses, drainage-channels and public roads existing at the time of its construction, and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the occupants of neighbouring lands;

(*b*) to maintain such water-course in a fit state of repair for the conveyance of water;

(*c*) to allow the use of it to others or to admit other persons as joint owners thereof on such terms as may be prescribed under the provisions of section twenty-three;

and every owner of a water-course and every person duly authorized under the provisions hereinafter contained to use a water-course shall be entitled— Rights of owners and users of water-courses.

(*d*) to have a supply of water by such water-course, at such rates and on such terms, as may from time to time be prescribed under section forty-four and by the rules made by the Governor in Council under section seventy:

Provided always that any owner of a water-course and subject to the terms

of any agreement between the parties, or to any condition imposed under section twenty-three, any such person as aforesaid may at any time, by giving three months' previous notice in writing in this behalf to a canal-officer duly empowered to receive such notices, resign his interest in such water-course.

Arrangement with owner by other person.

22. Any person desiring to have a supply of water through a water-course of which he is not an owner may make a private arrangement with the owner for permitting the conveyance of water thereby, or may apply to a canal-officer duly empowered to receive such applications for authority to use such water-course or to be declared a joint owner thereof.

Canal-officer after enquiry may authorize supply, or declare applicant to be joint owner.

23. On receipt of any such application, the canal-officer shall serve notice on the owner to show cause why such authority should not be granted, or such declaration should not be made, and, if no objection be raised, or if any objection be raised and be found insufficient or invalid, shall, subject to the approval of the Collector, either authorize the applicant to use the water-course, or declare him to be a joint owner thereof on such conditions as to the payment of compensation or rent or otherwise as may appear to him equitable.

Use of land acquired for water-course for other purpose.

24. No land acquired under this Part for a water-course shall be used for any other purpose without the previous consent of a canal-officer duly empowered to grant such permission.

If owner fails to execute work or to repair water-course, canal-officer may execute same

25. If any owner of a water-course fails to fulfil any obligation imposed upon him by clause (*a*) or (*b*) of section twenty-one, any canal-officer duly empowered in this behalf may require him by notice to execute the necessary work or repair within a period, to be prescribed in such notice, of not less than fifteen days, and, in the event of failure, may execute the same on his behalf; and, except as hereinafter provided in this section, all expenses incurred in the execution of such work or repair shall be a sum due by such owner to Government.

Persons using water course to pay share of expenses of repair.

Every person other than an owner who uses any water-course in respect of which any repair has been executed by a canal-officer under this section shall, in the absence of any agreement between the parties or of any condition imposed under section twenty-three at the time such person was authorized to use such water-course to the contrary, be liable to pay to Government such proportion of the expenses incurred in the execution of such repairs as shall be determined by the said canal-officer.

Settlement of Disputes concerning Water-courses.

Settlement of disputes as to mutual rights and liabilities of persons

26. Whenever a dispute arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a water-course, or among joint owners of a water-course, as to their respective shares of the expense of constructing or maintaining such

water-course, or as to the amounts severally contributed by them towards such expense, or as to failure on the part of any owner to contribute his share, Interested in water-course.

any person interested in the matter of such dispute may apply, in writing, to any canal-officer duly empowered to receive such applications, stating the matter in dispute.

Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to enquire into the said matter,

and if all the persons interested consent, in writing, to his being arbitrator, he may pass his order thereon;

failing such consent, he shall transfer the matter to the Collector, who shall enquire into and pass his order thereon.

Any order passed by the Collector under this section shall remain in force until set aside by a decree of a Civil Court.

PART IV.—Of the Supply of Water.

Applications for Supply.

27. Every person desiring to have a supply of water from a canal shall submit a written application to that effect to a canal-officer duly empowered to receive such applications, in such form as shall from time to time be prescribed by Government in this behalf. Water to be supplied on written application;

If the application be for a supply of water to be used for purposes other than those of irrigation, the canal-officer may, with the sanction of Government, give permission for water to be taken for such purposes under such special conditions and restrictions as to the limitation, control, and measurement of the supply as he shall be empowered by Government to impose in each case. and water may be supplied for purposes other than those of irrigation.

Provisions as to Supply.

28. The supply of water to any water-course or to any person who is entitled to such supply shall not be stopped except— Power to stop water-supply.

(*a*) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority;

(*b*) whenever and so long as any water-course by which such supply is received is not maintained in such repair as to prevent the wasteful escape of water therefrom;

(*c*) whenever and so long as it is necessary to do so in order to supply in rotation the legitimate demands of other persons entitled to water;

(*d*) whenever and so long as it may be necessary to do so in order to prevent the wastage or misuse of water;

(*e*) within periods fixed from time to time by a canal-officer duly empowered in this behalf, of which due notice shall be given.

Duration of supply.

29. When canal-water is supplied for the irrigation of one or more crops only, the permission to use such water shall be held to continue only until such crop or crops shall come to maturity, and to apply only to such crop or crops.

Agreements for supply of water transferable with property in respect of which supply given; right to use of water not transferable in other case without permission of canal-officer.

30. Every agreement for the supply of canal-water to any land, building or other immoveable property shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such land, building or other immoveable property takes place.

No person entitled to the use of any work or land appertaining to any canal, and, except in the case of any such agreement as aforesaid, no person entitled to use the water of any canal, shall sell or sub-let, or otherwise transfer, his right to such use without the permission of a canal-officer duly empowered to grant such permission.

PART V.—Of the Award of Compensation.

Compensation when claimable.

Compensation in cases of ascertainable substantial damage.

31. Compensation may be awarded in respect of any substantial damage caused by the exercise of any of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation:

Exceptions.

Provided that no compensation shall be so awarded in respect of any damage arising from

(*a*) deterioration of climate, or

(*b*) stoppage of navigation, or the means of rafting timber or of watering cattle, or

(*c*) stoppage or diminution of any supply of water in consequence of the exercise of the power conferred by section five, if no use have been made of such supply within the five years next before the date of the issue of the notification under section thirty-seven, or

(*d*) failure or stoppage of the water in a canal, when such failure or stoppage is due to—

(1) any cause beyond the control of Government,

(2) the execution of any repairs, alterations or additions to the canal, or

(3) any measures considered necessary by any canal-officer duly empowered in this behalf for regulating the proper flow of water in the canal, or for maintaining the established course of irrigation;

but any person who suffers loss from any stoppage or diminution of his water-supply due to any of the causes named in clause (*d*) of this section shall be entitled to such remission of the water-rate payable by him as may be authorized by the Governor in Council. Remission of water-rates when allowable.

32. No claim for compensation under this Act shall be entertained after the expiration of twelve months from the time when the damage complained of commenced, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period. Limitation of claims.

33. No compensation shall be claimable under this Act in respect of any work executed before it came into force, or of any damage caused by or in the execution of any such work. Compensation not claimable in respect of works executed prior to Act.

Summary Decisions.

34. In every case of entry upon any land or building under section six, section seven, section eight, or section nine, the canal-officer or person making the entry shall ascertain and record the extent of the damage, if any, caused by the entry, or in the execution of any work, to any crop, tree, building or other property, Compensation for damage caused by entry on land, &c.

and within one month from the date of such entry compensation shall be tendered by a canal-officer duly empowered in this behalf to the landholder or owner of the property damaged.

If such tender is not accepted, the canal-officer shall forthwith refer the matter to the Collector for the purpose of making enquiry as to the amount of compensation and deciding the same.

35. If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in clause (*d*) of section thirty-one, the holder of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector, after consulting the canal-officer, shall award to the petitioner reasonable compensation for such loss. Compensation on account of interruption of water-supply.

36. The decision of the Collector under either of the last two preceding sections as to the amount of compensation to be awarded, or, if in any rule framed under section seventy such decision shall be declared to be appealable, then the decision of the authority to whom the appeal lies, shall be conclusive. Decision as to amount of compensation under either of last two sections conclusive.

Formal Adjudications.

37. As soon as practicable after the issue of a notification under section five, the Collector shall cause public notice to be given at convenient places, stating that the Government intend to apply or use the water as aforesaid, and that claims for compensation may be made before him. Notice as to claims for compensation in certain cases.

A copy of sections thirty-one and thirty-two shall be annexed to every such notice.

Claims to be preferred to Collector.

38. All claims for compensation under this Act, other than claims of the nature provided for in sections thirty-four and thirty-five, must be made before the Collector of the district in which such claim arises.

Collector to be guided by provisions of Land Acquisition Act, 1870.

39. The Collector shall enquire into every such claim and determine the amount of compensation, if any, which should in his opinion be given to the claimant; and sections eleven, twelve, fourteen, fifteen, eighteen to twenty-three (inclusive), twenty-six to forty (inclusive), fifty-one and fifty-eight of the Land Acquisition Act, 1870, shall apply to such enquiries:

Provided that, instead of the last clause of the said section twenty-six, the following shall be read:—"The provisions of this section and of sections thirty-one and forty of the Bombay Irrigation Act, 1879, shall be read to every assessor in a language which he understands before he gives his opinion as to the amount of compensation to be awarded."

Diminution in market-value to be considered in fixing compensation.

40. In determining the amount of compensation under the last preceding section, regard shall be had to the diminution in the market-value, at the time of awarding compensation, of the property in respect of which compensation is claimed;

and where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual nett profits of such property, caused by the exercise of the powers conferred by this Act.

Compensation, when due.

41. All sums of money payable for compensation awarded under section thirty-nine shall become due three months after the claim for such compensation was made;

Interest.

and simple interest at the rate of six per centum per annum shall be allowed on any such sum remaining unpaid after the said three months, except when the non-payment of such sum is caused by the neglect or refusal of the claimant to apply for or receive the same.

Abatements of Land-revenue and Rent.

Abatement of revenue-demand on interruption of water-supply.

42. If compensation is awarded under section thirty-nine on account of a stoppage or diminution of supply of water to any land paying revenue to Government, and the amount of the revenue payable on account of such land has been fixed with reference to the water-advantages appertaining thereto, the holder of the said land shall be entitled to an abatement of the amount of revenue payable, to such extent as shall be determined by the Collector.

Abatement of inferior holder's rent

43. Every inferior holder of any land in respect of which such compensation has been paid shall, if he receives no part of the said compensation, be

entitled to an abatement of the rent previously payable by him to the superior holder thereof in proportion to the reduced value of the holding; on interruption of water-supply.

but if a water-supply which increases the value of the holding is afterwards restored to the said land otherwise than at the cost of the inferior holder, the superior holder shall be entitled to enhance the rent in proportion to such increased value: provided that the enhanced rent shall not in any case exceed the rent payable by the inferior holder before the abatement, unless the superior holder shall, independently of the provisions of this section, be entitled so to enhance the previous rent. Enhancement of inferior holder's rent on restoration of water-supply.

PART VI.—Of Water-rates.

Supply Rates.

44. Such rates shall be leviable for canal-water supplied for purposes of irrigation, or for any other purpose, as shall from time to time be determined by the Governor in Council. Determination of rates for supply of canal-water.

If, owing to the construction of a new canal or to the improvement or extension of an existing canal, the amount or duration of any water-supply, in respect of which either no revenue or a fixed amount of revenue has hitherto been paid to Government, is increased, rates shall be leviable under this section in respect of the increased water-supply only. Provision for cases in which existing water-supply is improved.

The said rates shall be payable by the person on whose application the supply was granted, or by any person who uses the water so supplied.

Occasional Rates.

45. If water supplied through a water-course be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified, the person or all the persons on whose land such water has flowed, if such land has derived benefit therefrom, Liability when person using water unauthorizedly cannot be identified.

or, if no land has derived benefit therefrom, the person, or all the persons chargeable in respect of the water supplied through such water-course,

shall be liable, or jointly liable, as the case may be, for the charges which shall be made for such use under the rules prescribed by the Governor in Council under section seventy.

46. If water supplied through a water-course be suffered to run to waste, and if, after enquiry, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, Liability when water runs to waste.

the person or all the persons chargeable in respect of the water supplied through such water-course shall be liable or jointly liable, as the case may be,

for the charges which shall be made, in respect of the water so wasted, under the rules prescribed by the Governor in Council under section seventy.

All questions arising under this and the last preceding section shall, subject to the provisions of section sixty-seven, be decided by a canal-officer duly empowered in this behalf.

Charges recoverable in addition to penalties.

47. All charges for the unauthorized use or for waste of water may be recovered, as water-rates, in addition to any penalties incurred on account of such use or waste.

Percolation and Leakage-rates.

Land deriving benefit from percolation liable to water-rate.

48. If it shall appear to a canal-officer duly empowered to enforce the provisions of this section that any cultivated land within two hundred yards of any canal receives, by percolation or leakage from such canal, an advantage equivalent to that which would be given by a direct supply of canal-water for irrigation,

or that any cultivated land, wherever situate, derives by a surface-flow, or by means of a well sunk within two hundred yards of any canal after the admission of water into such canal, a supply of water which has percolated or leaked from such canal,

he may charge on such land a water-rate not exceeding that which would ordinarily have been charged for a similar direct supply to land similarly cultivated.

For the purposes of this Act, land charged under this section shall be deemed to be land irrigated from a canal.

Protection-rate.

Levy of rate on lands irrigable, but not irrigated.

49. If at the close of any financial year it shall appear to the Governor in Council that the gross revenue from water supplied from any canal, or from the completed portion of any canal, during the said year has not amounted to five per centum of the total capital expended in the construction of such canal, or of the completed portion thereof, he may direct the levy in the year then next ensuing of a rate not exceeding eight annas per acre on all cultivated land which is under command of such canal but is not irrigated: Provided—

Provisoes.

(1)—that the rate to be so levied in respect of any such land shall not in any case exceed one-fourth of the full dry-crop rate at which such land is at the time being assessed for the purposes of the land-revenue;

(2)—that when the area of the land under command of the canal exceeds the area for which water is available therefrom for the irrigation during the monsoon-months of such dry crops as are ordinarily grown in the tract of

country through which such canal passes, the maximum rate leviable under the foregoing proviso shall be reduced in the proportion which the area for which water is so available bears to the area under command.

For the purposes of this section the amount of the total capital expended on the construction of a canal, or of any completed portion of a canal, shall be ascertained and determined in such manner as Government shall direct. The proportion in which the maximum-rate shall be reduced in respect of the lands under command of any canal to which the second proviso of this section is applicable shall also be determined under the orders of Government.

Conditions on which rate leviable.

50. The said rate shall not be leviable in respect of any land—

(*a*) which has not been irrigable from such canal for a period exceeding three years;

(*b*) if during the year for which such rate might otherwise be levied water sufficient for the irrigation of such land has not been supplied when duly applied for by the holder thereof;

(*c*) unless the nett annual value of the produce of such land or the productive powers thereof will be increased by the irrigation thereof by canal-water, after deducting all necessary expenses incurred in cultivating the same, conveying the water thereto, and paying all Government charges in respect of such irrigation;

(*d*) unless a canal-officer duly empowered in this behalf shall have offered to permit the person who would otherwise be liable to pay the said rate to construct the water-course necessary for conveying the water to the said land under section sixteen, or, if the said person shall so prefer, to apply the provisions of sections eighteen, nineteen and twenty, or of sections twenty-two and twenty-three, as the case may be, for the construction of a water-course, or for authorising such person to use or to become a joint owner of some other water-course;

and shall have tendered an advance of money sufficient to provide for the construction of the said water-course, or the acquisition of such authority or joint ownership, as the case may be; such advance to be repayable in conformity with the rules for recovering advances made under the Land Improvement Act, 1871.

Determination of questions as to fulfilment of conditions.

If any question shall arise whether the aforesaid conditions have been complied with, it shall be determined by the Collector.

Responsibility for rate on whom to rest.

51. If there are both superior and inferior holders of any land in respect of which the said rate is chargeable, the rate shall be payable by the superior holder, who shall be entitled to assistance in the recovery of the same from

the inferior holder in accordance with the law at the time in force for assisting such superior holders in recovering land-revenue-demands from their inferior holders.

Procedure for determining liability to Protection-rate.

Collector to publish notice of liability of irrigable lands

52. Immediately on the issue of an order by the Governor in Council for the levy of a rate under section forty-nine a general notice shall be published by the Collector of every district affected thereby, proclaiming the liability of all lands under command of the canal to the rate prescribed in the said order, unless such lands are irrigated, and setting forth the general boundaries within which the same will be leviable.

Canal-officer to prepare and submit sketch-map.

53. As soon as practicable after the issue of a notice under the last preceding section, a canal-officer duly empowered in this behalf shall prepare and submit to the Collector a sketch-map showing clearly the extent and boundaries of the area under command of the canal, or of the completed portion of the canal, in his district.

Collector to prepare and publish list of persons liable to rate.

54. The Collector shall by the aid of such sketch-map prepare a list of the landholders whom he shall deem to be liable to the payment of the said rate.

The said list shall be published, in such manner as the Collector deems fit, in every village concerned, together with an intimation that all objections to any entry therein must be made to the Collector, in writing, within one month from the publication thereof.

Hearing of objections

55. All objections duly made within the said period shall be heard and determined by the Collector, or, if the Collector shall so direct, by the Assistant or Deputy Collector in charge of the táluqa concerned; and the decision of the Collector, or of the Assistant or Deputy Collector, as the case may be, shall be final.

Copy of list to be furnished to officer empowered to collect rate.

56. A copy of the said list, as finally corrected, shall be given to the pátel or other officer empowered under section fifty-seven to collect the said rate, and shall be his warrant to collect the rate from the persons named therein.

Recovery of Water-rates and other Dues in Arrears.

Water-rates when and to whom to be paid.

57. Every water-rate leviable under this Act shall be payable in such instalments and on such dates and to such officers as shall from time to time be determined under the orders of the Governor in Council.

Arrears to be recoverable as land-revenue.

Any such rate, or instalment of the same, which is not paid on the day when it becomes due, and any sum due to Government or to a canal-officer, whether on behalf of Government or of any other person, under Part III of this Act, which is not paid when demanded, shall be recoverable according to the law and under the rules for the time being in force for the recovery of arrears of land-revenue.

Rent payable to the owner of a water-course by a person authorized to use such water-course shall be payable in such instalments and on such dates as the canal-officer duly empowered to act under section twenty-three shall direct, and may be recovered on behalf of the owner according to the law and rules aforesaid: provided always that no more shall at any time be payable to the owner than is actually recovered from the said person.

Rent due to owners of water courses to be recoverable as arrears of land-revenue.

PART VII.—Of obtaining Labour for Canals on Emergencies.

58. Whenever it appears to a canal-officer duly empowered to act under this section that, unless some work or repair is immediately executed, such serious damage will happen to any canal as to cause sudden and extensive public injury,

or that, unless some clearance of a canal or other work which is necessary in order to maintain the established course of irrigation is immediately executed, serious public loss will occur,

and that the labourers necessary for the proper execution of such repair, clearance or work cannot be obtained in the ordinary manner within the time that can be allowed for the execution of the same so as to prevent such injury or loss,

the said officer may, by order under his hand, direct that the provisions of this section shall be put into operation for the execution of such repair, clearance or work; and thereupon every able-bodied person who resides or holds land in the vicinity of the locality where such repair, clearance or work has to be executed, and whose name appears in the list hereinafter mentioned, shall, if required to do so by such officer or by any person authorized by him in this behalf, be bound to assist in the execution of such repair, clearance or work by labouring thereat as such officer or any person authorized by him in this behalf may direct.

Procedure for obtaining labour for works or repairs urgently required.

All persons so labouring shall be entitled to payment at rates which shall not be less than the highest rates for the time being paid in the neighbourhood for similar labour.

59. Subject to such rules as may from time to time be prescribed under section seventy in this behalf, the Collector shall prepare a list of the persons liable to be required to assist as aforesaid, and may from time to time add to or alter such list or any part thereof.

List of labourers.

60. All orders made under section fifty-eight shall be immediately reported to the Collector for the information of the Commissioner of the division, and likewise to the Chief Engineer for Irrigation, for the information of Government.

Reports to be made by canal-officer

PART VIII.—Of Penalties.

For damaging canal, &c

61. Whoever voluntarily and without proper authority—

(1)—damages, alters, enlarges or obstructs any canal;

(2)—interferes with, or increases or diminishes, the supply of water in, or the flow of water from, through, over or under any canal, or by any means raises or lowers the level of the water in any canal;

(3)—corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;

(4)—destroys, defaces or moves any land or level-mark or water-gauge fixed by the authority of a public servant;

(5)—destroys, tampers with or removes any apparatus, or part of any apparatus, for controlling, regulating or measuring the flow of water in any canal;

(6)—passes, or causes animals or vehicles to pass, in or across any of the works, banks or channels of a canal contrary to rules made under section seventy, after he has been desired to desist therefrom;

(7) causes or knowingly and wilfully permits cattle to graze upon any canal or flood-embankment, or tethers, or causes or knowingly and wilfully permits cattle to be tethered, upon any such canal or embankment, or roots-up any grass or other vegetation growing on any such canal or embankment, or removes, cuts or in any way injures or causes to be removed, cut or otherwise injured, any tree, bush, grass or hedge intended for the protection of such canal or embankment;

(8)—neglects, without reasonable cause, to assist or to continue to assist in the execution of any repair, clearance or work, when lawfully bound so to do under section fifty-eight;

(9)—violates any rule made under section seventy for breach whereof the Governor in Council shall, in such rules, direct that a penalty may be incurred;

and whoever—

(10)—being responsible for the maintenance of a water-course, or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner, or prevents or interferes with the lawful use of such water-course by any person authorized to use the same or declared to be a joint owner thereof under section twenty-three;

shall, when such Act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code, on conviction before a Magistrate, be punished for each such offence with fine which may extend to

fifty rupees, or with imprisonment of either description within the meaning of the said Code for a term which may extend to one month, or with both.

For endangering stability of canal, &c.

62. Whoever without proper authority— ,

(1)—pierces or cuts through, or attempts to pierce or cut through, or otherwise to damage, destroy or endanger the stability of, any canal;

(2)—opens, shuts or obstructs, or attempts to open, shut or obstruct, any sluice in any canal;

(3)—makes any dam or obstruction for the purpose of diverting or opposing the current of a river or canal on the bank whereof there is a flood-embankment, or refuses or neglects to remove any such dam or obstruction when lawfully required so to do;

shall, when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code, on conviction before a Magistrate of the first or second class, be punished for each such offence with fine which may extend to two hundred rupees, or with imprisonment of either description within the meaning of the said Code for a term which may extend to six months, or with both.

Obstruction to be removed and damage repaired.

63. Whenever any person is convicted under either of the last two preceding sections, the convicting Magistrate may order that he shall remove the obstruction or repair the damage in respect of which the conviction is held within a period to be fixed in such order. If such person neglects or refuses to obey such order within the period so fixed, any canal-officer duly empowered in this behalf may remove such obstruction or repair such damage, and the cost of such removal or repair, as certified by the said officer, shall be leviable from such person by the Collector as an arrear of land-revenue.

Persons employed on canal may take offenders into custody.

64. Any person in charge of, or employed upon, any canal, may remove from the lands or buildings belonging thereto, or may take into custody without a warrant, and take forthwith before a Magistrate or to the nearest Police-station, to be dealt with according to law, any person who within his view—

(1)—wilfully damages, obstructs or fouls any canal, or

(2)—without proper authority interferes with the supply or flow of water in or from any canal, or in any river or stream, so as to endanger, damage, make dangerous or render less useful any canal.

Saving of prosecution under other laws.

65. Nothing herein contained shall prevent any person from being prosecuted under any other law for any act or omission made punishable by this Act: provided that no person shall be punished twice in respect of one and the same act or omission.

Payment of fine as award to informant

66. Whenever any person is fined for an offence under this Act, the Court which imposes such fine, or which confirms in appeal or revision a sentence of such fine, or a sentence of which such fine forms part, may direct

that the whole or any part of such fine may be paid by way of award to any person who gave information leading to the detection of such offence or to the conviction of the offender.

If the fine be awarded by a Court whose decision is subject to appeal or revision, the amount awarded shall not be paid until the period prescribed for presentation of the appeal has elapsed, or, if an appeal be presented, till after the decision of the appeal.

PART IX.—Miscellaneous.

Appeals against orders under Act

67. Every order passed by a canal-officer under sections thirteen, eighteen, twenty-five, thirty, forty-five, forty-six and forty-eight shall be appealable to the Collector, provided that the appeal be presented within thirty days of the date on which the order appealed against was communicated to the appellant.

All orders and proceedings of a Collector under this Act shall be subject to the supervision and control of the Commissioner of the division.

Power to summon and examine witnesses.

68. Any officer empowered under this Act to conduct any enquiry may exercise all such powers connected with the summoning and examining of witnesses and the production of documents as are conferred on Civil Courts by the Code of Civil Procedure; and every such enquiry shall be deemed a judicial proceeding.

Service of notices

69. Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed by the officer therein mentioned. Whenever it may be practicable, the service of the notice shall be made on the person therein named. When such person cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business; and if such person has no ordinary place of residence within the district, service of any notice may be made by sending copy of such notice by post in a registered cover addressed to such person at his usual place of residence.

Power to make, alter and cancel rules.

70. The Governor in Council may from time to time make rules not inconsistent with this Act to regulate the following matters:—

(*a*) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;

(*b*) the cases in which, the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable,

(*c*) the person by whom, the time, place or manner at or in which, anything for the doing of which provision is made in this Act, shall be done;

(*d*) the amount of any charge to be made under this Act,

(*e*) and generally to carry out the provisions of this Act.

The Governor in Council may, from time to time, alter or cancel any rules so made.

Such rules, alterations, and cancelments shall be published in the *Bombay Government Gazette*, and shall thereupon have the force of law. Publication of rules.

71. Nothing in this Act shall be deemed to apply to any canal, channel, reservoir, lake or other collection of water vesting in any municipality. Saving of municipal water-works

SUPPLEMENT.

Part I:—Acts of the Supreme Council.

ACT No. IX of 1879.[a]

Received the Governor General's assent on the 23rd of May, 1879.

An Act to amend the law relating to Coast-lights in the eastern part of the Bay of Bengal.

Preamble.

WHEREAS it is expedient to increase the coast-light dues paid under the provisions of Act No. XIII of 1867 (*An Act to provide for the establishment and maintenance of Coast-lights in the eastern part of the Bay of Bengal*), and to render chargeable with coast-light dues certain vessels which are not now so chargeable; It it hereby enacted as follows:—

Preliminary.

Short title.

1. This Act may be called "The Burma Coast-lights Act, 1879."

Commencement.

It shall come into force on the first day of July, 1879;

Local extent.

and it shall extend to the territories respectively administered by the Governors of Fort St. George and Bombay in Council, the Lieutenant-Governor of Bengal and the Chief Commissioners of British Burma and the Andaman and Nicobar Islands.

But nothing herein contained shall apply to any vessel belonging to or in the service of Her Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State.

Repeal.

2. Act No. XIII of 1867 (*to provide for the establishment and maintenance of Coast-lights in the eastern part of the Bay of Bengal*) is hereby repealed.

But any appointment made under the said Act shall be deemed to have been made under this Act.

Interpretation-clause.

3. In this Act, unless there is something repugnant in the subject or context,—

Customs-Collector.

"Customs-Collector" means a Customs-Collector appointed under the Sea Customs Act, 1878, and includes any person appointed by the Local

[a] This and the two following Acts were passed after Part II of this Code was printed off.

Government by name or in virtue of his office to discharge the functions of a Customs-Collector under this Act at any port:

"Vessel." "Vessel" includes anything made for the conveyance by water of human beings or of property:

"Master" "Master," when used in relation to any vessel, means any person (except a pilot or harbour-master) having, for the time being, the charge or control of such vessel:

"Voyage" "Voyage" means the whole distance between a vessel's place of departure and her final place of arrival; but the return of a vessel from any place shall, notwithstanding the terms of any charter-party, be deemed a distinct voyage.

Coast-light Dues.

Coast-light dues payable in respect of vessels of fifty tons. 4. For the purpose of establishing and maintaining coast-lights in the eastern part of the Bay of Bengal, a toll, hereinafter called "coast-light dues," shall be paid in respect of every vessel of the burden of fifty tons and upwards making any voyage mentioned in the schedule hereto annexed, at the rate of one anna and six pie per ton of burden:

Provided that such vessel sails from or enters during the course of, or at the termination of, any such voyage a port in British India, or takes in, or discharges, cargo off the coast of British India.

Dues when payable. 5. The said coast-light dues shall become due and payable—

(*a*) in the case of a vessel clearing out of a port in British India upon any such voyage—previous to the grant of any port-clearance;

(*b*) in the case of a vessel entering a port in British India in the course, or at the termination, of any such voyage—immediately upon her entering such port:

Provided that the said dues shall not be levied more than once on any vessel in the course of the same voyage.

Power to vary rates of dues. 6. The Governor General in Council may from time to time, by notification in the *Gazette of India*, reduce or raise the rate of coast-light dues in respect of all vessels or any particular class of vessels:

Proviso. Provided that such rate shall not in any case exceed the rate fixed by section four.

Collection of dues. 7. The Customs-Collector shall collect the coast-light dues,

Voucher to be given. and shall grant to the person paying the same a voucher in writing under his hand, setting forth the name of his office, the port at which the coast-light dues are paid, the amount so paid, the name, tonnage and other proper description of the vessel in respect of which such payment is made, and the voyage on which she is or has been bound.

8. Within twenty-four hours after the arrival within a port of any vessel chargeable with coast-light dues, the master of such vessel shall give notice of such arrival to the Customs-Collector. Master to report arrival.

9. In order to ascertain the tonnage of any vessel chargeable with coast-light dues, the following rules shall be observed :— Tonnage of vessel chargeable with coast-light dues how ascertained.

(*a*) If such vessel be a British registered vessel or a vessel registered under Act No. X of 1841 or Act No. XI of 1850, or under any other law for the time being in force for the registration of vessels in India, the Customs-Collector may require the owner or master of such vessel, or any other person having possession of her register, to produce such register for inspection. If any such owner, master or other person neglects or refuses to produce such register, or otherwise to satisfy the Customs-Collector as to what is the true tonnage of the vessel in respect of which such coast-light dues are payable, he shall be punished with fine which may extend to one hundred rupees, and the Customs-Collector may cause such vessel to be measured and the tonnage thereof to be ascertained ; and in such case the owner or master of such vessel shall also be liable to pay the expenses of such measurement. If registered.

(*b*) If such vessel be not a British registered vessel or a vessel registered under Act No. X of 1841 or Act No. XI of 1850, or under any other law for the time being in force for the registration of vessels in India, and the owner or master thereof fails to satisfy the Customs-Collector as to what is her true tonnage according to the mode of measurement prescribed by the law in force for the time being for regulating the measurement of British registered vessels, the Customs-Collector shall cause such vessel to be measured and the tonnage thereof, according to the mode aforesaid, to be ascertained ; and in such case the owner or master of such vessel shall be liable to pay the expenses of such measurement. If not registered.

10. If the master of any vessel refuses or neglects to pay to the Customs-Collector on demand by him the amount of any dues or expenses payable in respect of such vessel under this Act, the Customs-Collector may distrain or arrest such vessel, and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount of such dues or expenses is paid ; . On refusal to pay dues or expenses, the Collector may distrain and sell.

and in case any part of such dues or expenses, or of the costs of the distress or arrest, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrest so made, the Customs-Collector may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy such dues, expenses and costs (including

the costs of sale) remaining unpaid, and shall render the surplus (if any) to the master of such vessel upon demand.

No port-clearance to be granted until dues, &c., are paid.

11. The officer of Government whose duty it is to grant a port-clearance for any vessel shall not grant such port-clearance until her master or some other person has paid, or secured to the satisfaction of such officer, the amount of all dues, expenses and costs with which such vessel is chargeable under this Act, and of any fine to which any person is liable for anything done by him in contravention of this Act.

Master to specify, on demand, voyage on which vessel is bound.

12. The master of any vessel departing from or entering any port in British India upon, or in the course of, or at the termination of, any voyage, shall, upon the demand of the Customs-Collector, specify upon what voyage she is or has been bound.

Penalty for evading payment of dues, &c.

13. If the master of any vessel evades, or attempts to evade, the payment of any coast-light dues, expenses or costs payable in respect of such vessel under this Act, he shall be punished with fine which may extend to two hundred rupees.

Determination of Disputes under Act.

Magistrate to decide disputes.

14. If any dispute arises as to whether any vessel is chargeable with any coast-light dues, expenses or costs under this Act, or as to the amount of such dues, expenses or costs, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined in the towns of Calcutta, Madras and Bombay by a Presidency Magistrate, and elsewhere by any Magistrate exercising at the place where the dispute arises powers under the Code of Criminal Procedure not less than those of a Magistrate of the second class. All decisions under this section shall be final.

Prosecutions under other Laws.

Saving of prosecutions under other laws.

15. Nothing herein contained shall prevent any person from being prosecuted under any other law for any act or omission which constitues an offence against this Act: provided that no person shall be punished twice for the same act or omission.

Statement of Receipts and Expenditure.

Statement of receipts and expenditure to be published.

16. The Governor General in Council shall, on or before the first day of October in each year, publish in the *Gazette of India* a statement showing the amount received on account of coast-light dues during the year ending on the thirty-first day of March last preceding, and the amount expended during the same period on the establishment and maintenance of coast-lights in the eastern part of the Bay of Bengal.

AND whereas it is also expedient to amend the Indian Ports Act, 1875, in manner hereinafter appearing; It is hereby further enacted as follows:—

Amendment of Indian Ports Act, 1875.

17. For section 77 of the same Act, the following shall be substituted:—

Application of Maulmain and Bassein port-dues.

"77. The port-due leviable under this Act in either of the ports of Maulmain and Bassein shall, to the extent of one anna and six pie per ton, be applicable in the first place to defray the expenses of maintaining the existing port-lights of British Burma."

SCHEDULE.

(*See section 4.*)

1. A voyage to or from Chittagong or any place west of the longitude of Chittagong—	(*a*) from or to any port in British Burma; or (*b*) from or to any port in the Andaman and Nicobar Islands or any place east of the longitude of Mergui, by a course passing between the northern extremity of the Andaman Islands and the coast of British Burma.
2. A voyage to or from any port in British Burma—	from or to any other port in British Burma,
except voyages to or from Maulmain, or from or to Tavoy or Mergui, or to or from Tavoy, from or to Mergui.	
3. A voyage to or from Rangoon and any port in British Burma west of the longitude of Rangoon—	from or to any place east of the longitude of Mergui.
4. A voyage to or from any Port in British Burma other than Tavoy and Mergui—	from or to any port in the Andaman and Nicobar Islands.

ACT No. XVI OF 1879.

Received the Governor General's assent on the 30th of September, 1879.

An Act to restrict the transport of Salt by Sea.

Preamble.

WHEREAS it is expedient to restrict the transport of salt by sea in manner hereinafter appearing; It is hereby enacted as follows:

Short title.

1. This Act may be called "The Transport of Salt Act, 1879."

Local extent

It extends to the western coast of British India, north of Cochin and to the sea within a distance of a marine league from such coast;

Commencement

and it shall come into force at once.

Penalties for carrying salt in certain vessels

2. When any salt is carried by sea in any vessel other than a vessel of the burden of three hundred tons and upwards, the owner and master of such vessel shall each be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both

Exceptions.

3. Nothing in section two applies to

(*a*) salt covered by a permit granted under section twenty-eight or section thirty-one of the Act of the Governor of Bombay in Council No. VII of 1878, or by a rawána granted under Madras Regulation I of 1805, section eleven, clause third;

(*b*) salt covered by a pass granted by any officer whom the Governor of Bombay in Council may appoint in this behalf;

(*c*) such amount of salt carried on board any vessel for consumption by her crew or by the passengers or animals (if any) on board as the Governor of Bombay in Council may, from time to time, exempt from the operation of section two.

Power of stoppage, search and arrest.

4. When any officer empowered by the Governor of Bombay in Council, whether by name or office, to act under this section has reason to believe, from personal knowledge or from information taken down in writing, that any salt is being carried, or has within the twenty-four hours next before the requirement first hereinafter mentioned been carried, in any vessel so as to render the owner or master of such vessel liable to the penalties prescribed by section two, he may require such vessel to be brought-to, and there-upon may

(*a*) enter and search the same;

(*b*) require the master of such vessel to produce any documents in his possession relating to such vessel or the cargo thereof;

(*c*) seize such vessel if the said officer has reason to believe it liable to confiscation under this Act, and cause it to be brought with its crew and cargo into any port in British India; and

(*d*) where salt is found on board such vessel, search and arrest without a warrant any person on board the same who such officer has reason to believe is punishable under section two.

Penalties for resisting officer.

5. Any master of a vessel refusing or neglecting to bring-to or to produce his papers when required to do so by an officer acting under section four,

and any person obstructing any such officer in the performance of his duty,

may be arrested by such officer without a warrant, and shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Confiscation of vessel and cargo.

6. Every vessel in which salt is carried so as to render the owner or master of such vessel liable to the penalties prescribed by section two, the cargo on board such vessel and all salt in respect of which an offence under this Act has been committed shall be liable to confiscation.

The confiscation of any vessel under this section shall include her tackle, apparel and furniture.

Confiscations under this section may be adjudged by the Chief Customs Authority, or by such other officer as the Local Government may, from time to time, appoint in this behalf.

Whenever any Customs-officer is satisfied that any article is liable to confiscation under this section, he may seize such article, and shall at once report the seizure to his superior officer for the information of the Chief Customs Authority or such other officer as aforesaid, and such authority or officer may, if satisfied on such report, or after making such enquiry as it or he thinks fit, that the article so seized is liable to confiscation, either declare it to be confiscated or impose a fine in lieu thereof not exceeding the value of the article.

Jurisdiction.

7. For the purpose of the adjudication of penalties under section two or section five, every offence thereunder may be deemed to have been committed within the limits of the jurisdiction of the Magistrate of any place where the offender is found, or to which, if arrested under section four or section five, he may be brought.

Power to exempt from operation of Act.

8. The Governor General in Council may from time to time, by notification in the *Gazette of India*, exempt the carriage of salt within any local limits or in any class of vessels from the operation of this Act, and, by like notification, again subject such carriage to the operation of this Act.

THE DEKKHAN AGRICULTURISTS' RELIEF ACT, 1879.

CONTENTS.

PREAMBLE.

CHAPTER I.—PRELIMINARY.

SECTIONS.

1. Short title.
   Commencement.
   Local extent.
2. Interpretation-clause.

CHAPTER II.—Of the Hearing of certain Suits by Subordinate Judges.

Sections.

3. Application of this chapter.
4. Certain suits to be instituted in Courts of first class Subordinate Judges.
5. Subordinate Judges not to act as Judges of Small Cause Courts.
6. Jurisdiction of Subordinate Judge and Small Cause Court.
7. Summons to be for final disposal of suit.
Court to examine defendant as witness.
8. Written statements.
9. Record of evidence.
10. No appeal to lie.

CHAPTER III.—Of Suits and other Proceedings to which Agriculturists are Parties.

11. Agriculturists to be sued where they reside.
12. History of transactions with agriculturist-debtors to be investigated.
13. Mode of taking account.
14. Interest to be allowed.
15. Reference to arbitration in certain cases.
16. Agriculturist-debtors may sue for accounts.
Amount of debts in such cases to be determined according to foregoing provisions.
17. Decree under section 16 may provide for payment by instalments.
Execution of decrees under this section.
18. Payment into court in cases under section 16.
19. Power to discharge judgment-debtor.
Power to direct institution of insolvency-proceedings.
20. Power to fix instalments in execution.
21. Arrest and imprisonment in execution of decree for money abolished.
22. Immoveable property exempted from attachment and sale unless specifically pledged.
23. Chapter not to apply to Village-Munsifs' Courts.

CHAPTER IV.—Of Insolvency.

24. Subordinate Judges to have jurisdiction in agriculturists' cases.
25. Agriculturists may apply for adjudication in cases not provided for by Code.
26. Modification of section 351 of Code.
27. Receiver.
28. Proof of debt.
29. Immoveable property not to vest in Receiver, but may be managed for benefit of creditors.
30. Secured debts.
31. Insolvent incompetent to sell, &c., property dealt with under sections 29 and 30.
32. Scheduled debts discharged.
33. Appeals barred.

CHAPTER V.—Of Village-Munsifs.

Sections.

34. Appointment of Village-Munsifs.
35. Suits triable by them.
Jurisdiction of other Courts excluded.
Proviso.
36. District Judge's power of revision.
37. Power of Local Government to make rules.

CHAPTER VI.—Of Conciliation.

38. Appointment of Conciliators.
39. Matters which may be brought before Conciliator.
40. Procedure thereupon.
Day for attendance may from time to time be postponed.
41. When all parties appear, Conciliator to endeavour to reconcile them.
42. Conciliator to hear statements of witnesses, &c.
43. Any agreement arrived at to be reduced to writing.
44. Procedure when agreement finally disposes of case.
45. Procedure where agreement is for reference to arbitration.
46. Certificate to be given to applicant if conciliation fails.
47. Suit, or application for execution, not to be entertained by civil Court unless such certificate is produced.
48. Allowance to be made in period of limitation.
49. Local Government to make rules.

CHAPTER VII.—Superintendence and Revision.

50. District Judge to inspect, &c.
51. District Judge may withdraw case from Subordinate Judge, or sit with Subordinate Judge as a Bench for trial of any case.
52. Appointment of Assistant or Subordinate Judge to aid District Judge.
53. Of revision.
54. Special Judge.

CHAPTER VIII.—Registration by Village-Registrars.

55. Appointment of Village-Registrars.
56. Instruments executed by agriculturist not to be deemed valid unless executed before a Village-Registrar.
57. Such instruments to be written by or under the superintendence of a Village-Registrar and executed in his presence.
Attestation of such instruments.
58. Registration of instruments by Village-Registrars.
59. Consideration to be fully stated in every instrument executed before a Village-Registrar.
Previous instruments to be produced.
60. Registration under this Act to be deemed equivalent to registration under Indian Registration Act, 1877.

SECTIONS.

61. Village-Registrars to be subordinate to the Inspector General of Registration.
62. Exemption of instruments to which Government or any officer of Government is a party.
63. Power of Local Government to make rules.

CHAPTER IX.—OF RECEIPTS AND STATEMENTS OF ACCOUNT.

64 Agriculturists entitled to written receipts.
65. To annual statements of account.
66. To have account made up from time to time in a pass-book.
67. Penalty for contravention of sections 64 to 66.

CHAPTER X.—LEGAL PRACTITIONERS.

68. Pleaders, &c., excluded in certain cases.
69. Power of Court to appoint pleader for agriculturist.

CHAPTER XI.—MISCELLANEOUS.

70. Mortgages, &c., to be valid only when written.
71. All mortgages hitherto executed to be registered.
72. Limitation.
73. Decision as to whether person is an agriculturist, final.
74. Civil Procedure Code to apply in Subordinate Judges' Courts.
75. Additional power to make rules.
76. Rules to be published.

ACT No. XVII OF 1879

Received the Governor General's assent on the 29th of October, 1879.

An Act for the Relief of Indebted Agriculturists in certain parts of the Dekkhan.

Preamble. WHEREAS it is expedient to relieve the agricultural classes in certain parts of the Dekkhan from indebtedness; It is hereby enacted as follows :—

CHAPTER I.—PRELIMINARY.

Short title 1. This Act may be cited as "The Dekkhan Agriculturists' Relief Act, 1879:"

Commencement. and it shall come into force on the first day of November, 1879.

Local extent. Sections eleven, fifty-six, sixty and sixty-two extend to the whole of British India. The rest of this Act extends only to the districts of Puna, Satára, Sholapur and Ahmadnagar.

2. In this Act, unless there is something repugnant in the subject or context,— Interpretation-clause.

(1) "money" includes agricultural produce, implements and stock: "money:"

(2) "agriculturist" means a person who earns his livelihood wholly or principally by agriculture carried on within the limits of the said districts; and every agriculturist shall be deemed to "reside" where he so earns his livelihood. "agriculturist."

CHAPTER II.—Of the Hearing of certain Suits by Subordinate Judges.

3. The provisions of this chapter shall apply to— Application of this chapter.

(*a*) suits for an account instituted on or after the first day of November, 1879, by an agriculturist in the Court of a Subordinate Judge under the provisions hereinafter contained, and

(*b*) suits of the descriptions next hereinafter mentioned and instituted on or after the same date—

(1) when such suits are heard by Subordinate Judges of the first class and the subject-matter thereof does not exceed in amount or value five hundred rupees, or

(2) when such suits are heard by Subordinate Judges of the second class and the subject-matter thereof does not exceed in amount or value one hundred rupees, or

(3) when such suits are heard by Subordinate Judges of the second class and the subject-matter thereof exceeds one hundred rupees, but does not exceed five hundred rupees, in amount or value, and the parties to the suits agree that such provisions shall apply thereto.

The descriptions of suits referred to in clause (*b*) are the following (namely) :—

(*w*) suits for the recovery of money alleged to be due to the plaintiff—

on account of money lent or advanced to, or paid for, the defendant, or

as the price of goods sold, or

on an account stated between the plaintiff and defendant, or

on a written or unwritten engagement for the payment of money not hereinbefore provided for;

(*x*) suits for the recovery of money due on contracts other than the above and suits for rent or for moveable property, or for the value of such property, or for damages; and

(*y*) suits for foreclosure or for the possession of mortgaged property, or for sale of such property, or for foreclosure or sale, when the defendant, or any one of the defendants not being merely a surety for the principal debtor, is an agriculturist; and

(*z*) suits for the redemption of mortgaged property when the plaintiff, or, where there are several plaintiffs, any one of the plaintiffs, is an agriculturist.

Certain suits to be instituted in Courts of first class Subordinate Judges.

4. Where a Subordinate Judge of the first class and a Subordinate Judge of the second class have ordinary jurisdiction in the same local area, every suit referred to in section three, clause (*b*), and instituted in such local area shall, if the amount or value of the subject-matter of such suit exceeds one hundred rupees and does not exceed five hundred rupees, be instituted in the Court of the Subordinate Judge of the first class.

Subordinate Judges not to act as Judges of Small Cause Courts.

5. Notwithstanding anything contained in the Bombay Civil Courts Act, 1869, section 28, no Subordinate Judge shall be invested with the jurisdiction of a Judge of a Court of Small Causes; and any such jurisdiction heretofore conferred on any Subordinate Judge shall be deemed, except as regards suits instituted before the said first day of November, 1879, to have been withdrawn.

Jurisdiction of Subordinate Judge and Small Cause Court.

6. The Local Government may, from time to time, by notification in the local Gazette, direct that any class of suits which a Subordinate Judge would be precluded from hearing by section 12 of Act XI of 1865 (*to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature*), shall be heard and determined by him and not otherwise, and may, by a like notification, cancel any such direction.

Summons to be for final disposal of suit.

7. In every case in which it seems to the Court possible to dispose of a suit at the first hearing, the summons shall be for the final disposal of the suit.

Court to examine defendant as witness.

In every suit the Court shall examine the defendant as a witness unless, for reasons to be recorded by it in writing, it deems it unnecessary so to do.

Written statements.

8. In suits of the descriptions mentioned in section three, clauses (*w*) and (*x*), no party shall be entitled without the permission of the Court to file a written statement.

Record of evidence.

9. When the subject-matter of any suit does not exceed ten rupees in amount or value, it shall not be necessary to take down the evidence or make a memorandum thereof in manner provided by the Code of Civil Procedure; but in cases where the evidence is not so taken down and no memorandum is so made, the substance of the evidence shall be stated in the judgment.

No appeal to lie.

10. No appeal shall lie from any decree or order passed in any suit to which this chapter applies.

CHAPTER III.—Of Suits and other Proceedings to which Agriculturists are Parties.

Agriculturists

11. Every suit of the description mentioned in section three, clause (*w*),

may, if the defendant, or, when there are several defendants, one only of such defendants, is an agriculturist, be instituted and tried in a Court within the local limits of whose jurisdiction such defendant resides and not elsewhere. To be sued where they reside.

Every such suit in which there are several defendants who are agriculturists may be instituted and tried in a Court within the local limits of whose jurisdiction any one of such defendants resides and not elsewhere.

Nothing herein contained shall affect sections 22 to 25 (both inclusive) of the Code of Civil Procedure.

12. In any suit of the description mentioned in section three, clause (*w*), in which the defendant or any one of the defendants, not being merely a surety of the principal debtor, is an agriculturist, History of transactions with agriculturist-debtors to be investigated.

and in any suit of the descriptions mentioned in section three, clause (*y*) or clause (*z*),

the Court shall, if the amount of the creditor's claim is disputed, enquire into the history and merits of the case, from the commencement of the transactions between the parties and the persons (if any) through whom they claim, out of which the suit has arisen, first, with a view to ascertaining whether there is any defence to the suit on the ground of fraud, mistake, accident, undue influence or otherwise, and secondly, with a view to taking an account between such parties in manner hereinafter provided.

When the amount of the claim is admitted and the Court for reasons to be recorded by it in writing believes that such admission is true and is made by the debtor with a full knowledge of his legal rights as against the creditor, the Court shall not be bound so to enquire, but may do so if it thinks fit.

In other cases in which the amount of the claim is admitted the Court shall be bound to enquire as aforesaid.

Section IX, clause first, of Bombay Regulation V of 1827 is repealed so far as regards any suit to which this section applies.

Nothing herein contained shall affect the right of the parties to require that any matter in difference between them be referred to arbitration.

13. When the Court enquires into the history and merits of a case under section twelve, it shall— Mode of taking account.

notwithstanding any agreement between the parties or the persons (if any) through whom they claim, as to allowing compound interest or setting-off the profits of mortgaged property without an account in lieu of interest, or otherwise determining the manner of taking the account,

and notwithstanding any statement or settlement of account, or any contract purporting to close previous dealings and create a new obligation,

take the account between the parties from the commencement of the

transactions and take that account according to the following rules (that is to say) :—

(*a*) separate accounts of principal and interest shall be taken :

(*b*) in the account of principal there shall be debited to the debtor such money as may from time to time have been actually received by him or on his account from the creditor, and the price of goods, if any, sold to him by the creditor as part of the transactions :

(*c*) in the account of principal there shall not be debited to the debtor any money which he may have agreed to pay in contravention of section 257A of the Code of Civil Procedure :

(*d*) in the account of principal there shall not be debited to the debtor any accumulated interest which has been converted into principal at any statement or settlement of account or by any contract made in the course of the transactions, unless the Court, for reasons to be recorded by it in writing, deems such debit to be reasonable :

(*e*) in the account of interest there shall be debited to the debtor, monthly, simple interest on the balance of principal for the time being outstanding, at the rate allowed by the Court as hereinafter provided :

(*f*) all money paid by or on account of the debtor to the creditor or on his account, and all profits, service or other advantages of every description, received by the creditor in the course of the transactions (estimated, if necessary, at such money-value as the Court in its discretion, or with the aid of arbitrators appointed by it, may determine) shall be credited first in the account of interest; and when any payment is more than sufficient to discharge the balance of interest due at the time it is made, the residue of such payment shall be credited to the debtor in the account of principal :

(*g*) the accounts of principal and interest shall be made up to the date of instituting the suit, and the aggregate of the balances (if any) appearing due on both such accounts against the debtor on that date shall be deemed to be the amount due at that date, except when the balance appearing due on the interest-account exceeds that appearing due on the principal-account, in which case double the latter balance shall be deemed to be the amount then due.

Interest to be allowed.

14. The interest to be awarded in taking an account according to the rules set forth in section thirteen shall be—

(*a*) the rate, if any, agreed upon between the parties, or the persons (if any) through whom they claim, unless such rate is deemed by the Court to be unreasonable; or

(*b*) if such rate is deemed by the Court unreasonable, or if no rate was agreed upon, or, when any agreement between the parties, or the persons (if any) through whom they claim, to set-off profits without an account in

interest has been set aside by the Court, such rate as the Court deems reasonable.

Reference to arbitration in certain cases.

15. Instead of enquiring into the history and merits of a case under section twelve, or if upon so enquiring the Court is unable to satisfy itself as to the amount which should be allowed on account of principal or interest or both, the Court may, of its own motion, direct that such amount be ascertained by arbitration.

If the parties are willing to nominate arbitrators, the arbitrators shall be nominated by them in such manner as may be agreed upon between them: if the parties are unwilling to nominate arbitrators or cannot agree in respect of such nomination, the Court shall appoint any three persons it thinks fit:

Provided that if all the parties reside in the same village, town or city, and, in the opinion of the Court, three fit persons can be found among the residents of such village, town or city, it shall appoint residents of such village, town or city.

The provisions of sections 508 to 522 (both inclusive) of the Code of Civil Procedure shall apply to every reference to arbitration under this section.

Agriculturist-debtors may sue for accounts.

16. Any agriculturist may sue for an account of money lent or advanced to or paid for him by a creditor, or due by him to the creditor as the price of goods sold, or on a written or unwritten engagement for the payment of money, and of money paid by him to the creditor, and for a decree declaring the amount, if any, still payable by him to the creditor.

Amount of debts in such cases to be determined according to foregoing provisions.

When any such suit is brought, the amount (if any) payable by the plaintiff shall be determined under the same rules as would be applicable under this Act if the creditor had sued him for recovery of the debt.

Decree under section 16 may provide for payment by instalments.

17. A decree passed under section sixteen may, besides declaring the amount due, direct that such amount shall be paid by instalments, with or without interest; and, when any such decree so directs, the plaintiff may pay the amount of such decree, or the amount of each instalment fixed by such decree, as it falls due, into court, in default whereof execution of the decree may be enforced by the defendant in the same manner as if he had obtained a decree in a suit to recover the debt.

Execution of decrees under this section.

Payment into court in cases under section 16.

18. The plaintiff in any suit instituted under section sixteen may at any stage of such suit deposit in court such sum of money as he considers a satisfaction in full of the defendant's claim against him.

Notice of the deposit shall be given by the Court to the defendant, and the amount of the deposit shall (unless the Court otherwise directs) be paid to the defendant on his application.

No interest shall be allowed to the defendant on any sum

from the date of the receipt of such notice, whether the sum deposited be in full of the claim or fall short thereof.

Power to discharge judgment-debtor.

19. When a decree has been passed, whether before or after this Act comes into force, under which any sum less than fifty rupees is recoverable from an agriculturist, the Court may, either in the course of execution of such decree or otherwise, if it is satisfied that there is no other claim against him and that he is unable to pay the whole of such sum, direct the payment of such portion of the same as it considers him able to pay, and grant him a discharge from the balance.

Power to direct institution of insolvency-proceedings.

When the sum payable under the decree amounts to fifty rupees or upwards, or when there are other debts due by the debtor which together with such sum amount to fifty rupees or upwards, the Court may direct proceedings to be taken with respect to him as nearly as may be as if he had applied to be declared an insolvent under the provisions hereinafter contained.

Power to fix instalments in execution.

20. The Court may at any time direct that the amount of any decree passed, whether before or after this Act comes into force, against an agriculturist, or the portion of the same which it directs under section nineteen to be paid, shall be paid by instalments with or without interest.

Arrest and imprisonment in execution of decree for money abolished.

21. No agriculturist shall be arrested or imprisoned in execution of a decree for money.

Immoveable property exempted from attachment and sale unless specifically pledged.

22. No agriculturist's immoveable property shall be attached or sold in execution of any decree or order unless it has been specifically mortgaged for the repayment of the debt to which such decree or order relates, and the security still subsists.

But the Court may, when passing a decree against an agriculturist or at any subsequent time, direct the Collector to take possession, for any period not exceeding seven years, of any such property of the judgment-debtor to the possession of which he is entitled, and which, in the opinion of the Collector, is not required for his support and the support of the members of his family dependent on him, and the Collector shall thereupon take possession of such property and deal with the same for the benefit of the decreeholder in manner provided by section twenty-nine.

The provisions of section thirty-one shall, *mutatis mutandis*, apply to any property so dealt with.

Chapter not [illegible]ly to

23. No provision of this chapter shall apply to the proceedings in the Court[illegible] of Village Munsifs unless such provision has been specially extended [illegible]r the power hereinafter conferred.

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